

**ADJOURNMENT**

On motion of Senator Mauzy the Senate at 4:05 o'clock p.m. adjourned until 10:00 o'clock a.m. tomorrow.

**APPENDIX**

Sent to Governor  
(May 25, 1981)

S.B. 425	S.B. 974
S.B. 555	S.B. 999
S.B. 755	S.B. 1073
S.B. 94	S.B. 1175
S.B. 102	S.B. 1187
S.B. 277	S.B. 1188
S.B. 320	S.B. 1189
S.B. 332	S.B. 1200
S.B. 344	S.B. 1201
S.B. 483	S.B. 1220
S.B. 594	S.B. 1225
S.B. 644	S.B. 1226
S.B. 813	S.C.R. 107
S.B. 859	S.C.R. 112
S.B. 877	S.C.R. 117
S.C.R. 27	S.C.R. 53
S.C.R. 35	S.C.R. 102

**SEVENTY-EIGHTH DAY**  
(Tuesday, May 26, 1981)

The Senate met at 10:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

A quorum was announced present.

(President Pro Tempore Traeger in Chair)

The Reverend Dr. Gerald Mann, Senate Chaplain, offered the invocation as follows:

Our Father, for the hundreds whose lives have been stricken by the floods in this city, we ask for a special portion of Your Grace.

And use this to teach us that in spite of all our human achievements, we are ultimately dependent upon the mercy of forces beyond ourselves. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

#### REPORTS OF STANDING COMMITTEES

Senator Blake submitted the following report for the Committee on Administration:

H.C.R. 146  
H.C.R. 148  
H.C.R. 93  
H.C.R. 159  
H.C.R. 80  
H.C.R. 168  
H.C.R. 173  
H.C.R. 73  
H.C.R. 49  
H.C.R. 113  
S.C.R. 124  
S.C.R. 123  
S.C.R. 120  
H.C.R. 76  
H.C.R. 58  
S.R. 642  
S.C.R. 118  
H.C.R. 172  
S.C.R. 126  
S.C.R. 115  
S.C.R. 116  
C.S.H.C.R. 53 (Read first time)  
C.S.H.C.R. 170 (Read first time)  
C.S.S.C.R. 110 (Read first time)  
S.R. 649

Senator Farabee submitted the following report for the Committee on State Affairs:

S.B. 805  
S.B. 772 (Amended)  
S.B. 693  
H.B. 795 (Amended)  
H.C.R. 138  
H.B. 2129 (Amended)  
H.B. 2171  
H.B. 1922  
H.B. 1529 (Amended)  
H.B. 1598  
H.B. 1521  
H.B. 1488  
H.B. 1487

H.B. 1403  
H.B. 1396  
H.B. 1378  
H.B. 1128  
H.B. 933  
H.B. 882  
H.B. 428  
H.B. 542  
C.S.H.B. 738 (Read first time)  
C.S.H.B. 502 (Read first time)

Senator Harris submitted the following report for the Committee on Economic Development:

H.B. 599  
H.B. 697  
H.B. 870  
H.B. 900 (Amended)  
H.B. 1161  
H.B. 1394  
H.B. 1420  
H.B. 1451  
H.B. 1497  
H.B. 1786  
H.B. 1822  
H.B. 1856  
H.B. 1874  
H.B. 1896  
H.B. 1939  
H.B. 2014  
H.B. 2050  
H.B. 2240  
C.S.H.B. 1570 (Read first time)  
C.S.H.B. 2350 (Read first time)

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Human Resources:

H.B. 707  
H.B. 1112

Senator Brooks submitted the following report for the Committee on Human Resources:

S.R. 656  
H.B. 1504

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Human Resources:

H.C.R. 132

Senator Brooks submitted the following report for the Committee on Human Resources:

**C.S.S.R. 657** (Read first time)

Senator Uribe, Acting Chairman, submitted the following report for the Committee on Human Resources:

**C.S.H.J.R. 62** (Read first time)

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

**S.R. 719**  
**H.B. 1349** (Amended)  
**H.B. 2300** (Amended)  
**H.B. 2122**  
**H.B. 792**  
**S.B. 1291**  
**H.B. 471**  
**H.B. 693**  
**H.B. 1931**  
**H.B. 961**  
**C.S.H.B. 1407** (Read first time)  
**C.S.H.B. 1071** (Read first time)

Senator Snelson submitted the following report for the Committee on Education:

**H.B. 1020**  
**H.B. 141**  
**S.B. 1292** (Amended)  
**C.S.H.J.R. 111** (Read first time)  
**C.S.S.B. 925** (Read first time)

Senator Harris submitted the following report for the Committee on Economic Development:

**H.B. 2009**  
**H.B. 1144**  
**C.S.H.B. 2198** (Read first time)  
**C.S.S.B. 985** (Read first time)

**SENATE RESOLUTION ON FIRST READING**

On motion of Senator Mauzy and by unanimous consent, the following resolution was introduced, read first time and referred to the Committee indicated:

**S.R. 744** by Mayzy Jurisprudence  
Directing the Office of Court Administration to investigate the feasibility of providing state certification of court interpreters for bilingual proceedings.

(President in Chair)

**SENATE RESOLUTION 741**

Senator Doggett offered the following resolution:

**S.R. 741**, Commending Charles Robert Young for his many years of dedication to the goal of furthering the educational and vocational opportunities of the handicapped in Texas.

The resolution was read and was adopted.

**GUESTS PRESENTED**

Senator Doggett escorted Mr. and Mrs. Young to the President's Rostrum.

They were welcomed by the Members of the Senate and a large delegation of students from the Texas School for the Blind.

The President presented Mr. Young with an enrolled copy of Senate Resolution 741.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 26, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**H.C.R. 215**, Authorizing consideration of **H.B. 960** on Senate bill days, May 27 and 28.

The House concurred in Senate amendments to **H.B. 903** by non-record vote.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**BILLS AND RESOLUTIONS SIGNED**

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolution:

S.B. 6	S.B. 701
S.B. 26	S.B. 738
S.B. 42	S.B. 776
S.B. 172	S.B. 896
S.B. 224	S.B. 957
S.B. 228	S.B. 1022
S.B. 337	S.B. 1035
S.B. 369	S.B. 1155
S.B. 382	S.B. 1174

<b>S.B. 464</b>	<b>S.B. 1176</b>
<b>S.B. 541</b>	<b>S.B. 1177</b> (Signed subject to Sec. 49a, Art. III, Constitution of State of Texas)
<b>S.B. 561</b>	<b>S.B. 1186</b>
<b>S.B. 565</b>	<b>S.B. 1199</b>
<b>S.B. 642</b>	<b>S.B. 1202</b>
<b>S.B. 656</b>	<b>S.B. 1209</b>
<b>H.C.R. 184</b>	<b>H.C.R. 212</b>
<b>H.B. 246</b>	<b>H.B. 1459</b>
<b>H.B. 391</b>	<b>H.B. 1549</b>
<b>H.B. 584</b>	<b>H.B. 1801</b>
<b>H.B. 1109</b>	<b>H.B. 1838</b>
<b>H.B. 1155</b>	<b>H.B. 1947</b>
<b>H.B. 1183</b>	<b>H.B. 2024</b>
<b>H.B. 1208</b>	<b>H.B. 769</b>

#### HOUSE CONCURRENT RESOLUTION 215

Senator Snelson offered the following resolution:

**H.C.R. 215**, Authorizing consideration of **H.B. 960** on Senate bill days, May 27 and 28.

The resolution was read.

On motion of Senator Snelson and by unanimous consent, the resolution was considered immediately and was adopted.

#### SENATE BILL 276 WITH HOUSE AMENDMENT

Senator Wilson called **S.B. 276** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Benedict

**S.B. 276** is amended by deleting SECTION 3 of Article 2 which begins on page 2, line 16 and ends on page 3, line 6.

The amendment was read.

Senator Wilson moved that the Senate do not concur in the House amendment, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on **S.B. 276** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Wilson, Chairman; Sarpalius, Short, Santiesteban, Brown.

#### CONFERENCE COMMITTEE ON HOUSE BILL 2333

Senator Wilson called from the President's table for consideration at this time, the request of the House for a Conference Committee to adjust the differences between the two Houses on H.B. 2333 and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the Conference Committee on H.B. 2333 before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Wilson, Chairman; Jones, Blake, Harris, Traeger.

#### SENATE BILL 402 WITH HOUSE AMENDMENT

Senator Harris called S.B. 402 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 402:

#### A BILL TO BE ENTITLED AN ACT

relating to continuation of the State Board of Registration for Professional Engineers and the regulation of engineers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Engineering Practice Act, as amended (Article 3271a, Vernon's Texas Civil Statutes), is amended by amending Sections 3, 3a, 4, 5, 6, 7, 8, 10, 11, 12a, 13, 14, 16, 21, and 22 and by adding Sections 22A and 22B to read as follows:

Sec. 3. STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS—APPOINTMENT OF MEMBERS—TERMS. A State Board of Registration for Professional Engineers is hereby created whose duty it shall be to administer the provisions of this Act. The Board shall consist of six (6) professional engineers and three (3) representatives of the general public, who shall be appointed by the Governor of the State, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate. ~~At [The members of the first Board shall be appointed within ninety (90) days after this Act becomes effective, to serve the following terms: Two (2) members for two (2) years; two (2) members for four (4) years; and two (2) members for six (6) years, from the date of their appointment or until their successors are duly appointed and qualified. Thereafter, at] the~~

expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualified. Before entering upon the duties of his office each member of the Board shall take the Constitutional Oath of office and the same shall be filed with the Secretary of State. ~~[Each member of the Board first appointed hereunder shall receive a certificate of registration under this Act from said Board.]~~

Sec. 3a. APPLICATION OF SUNSET ACT. The State Board of Registration for Professional Engineers is subject to the Texas Sunset Act (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993 ~~[(1981)]~~.

Sec. 4. QUALIFICATIONS OF MEMBERS OF BOARD. (a) Each professional engineer member of the Board shall be a citizen of the United States and a resident of this State for a period of 10 years prior to appointment, and shall have been engaged in the practice of the profession of engineering for at least 10 years, two years of which may be credited for graduation from an approved engineering school. Responsible charge of engineering teaching and the teaching of engineering shall be considered as the practice of professional engineering as defined by this Act for purposes of this section and for all other purposes in regard to the administration and enforcement of this Act. A person is eligible for appointment as a public member if the person and the person's spouse:

(1) are not licensed by an occupational regulatory agency in the field of engineering;

(2) are not employed by and do not participate in the management of an agency or business entity related to the field of engineering; and

(3) do not have, other than as consumers, a financial interest in a business entity related to the field of engineering.

(b) A member or employee of the Board may not be an officer, employee, or paid consultant of a trade association in the engineering industry. A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(d) The Board by majority vote may limit the participation of general public members in the evaluations of applications for licensure except in those instances in which the evaluations take place at an official meeting of the Board.

Sec. 5. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act [shall receive the sum of Ten (\$10.00) Dollars per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all legitimate expenses incurred in the performance of such duties]. All per diem and expenses incurred hereunder shall be paid from the "Professional Engineers' Fund" as provided in this law. No money shall ever be paid for the administration of this Act from the General Funds of the State.



Sec. 6. REMOVAL OF MEMBERS OF BOARD—VACANCIES. (a) ~~[The Governor may remove any member of the Board for misconduct, incompetency, or neglect of duty.]~~ Vacancies in the membership of the Board shall be filled for the unexpired term by appointment by the Governor as provided in this Act.

(b) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of Section 4 of this Act for appointment to the Board;

(2) does not maintain during the service on the Board the qualifications required by Subsection (a) of Section 4 of this Act for appointment to the Board;

(3) violates a prohibition established by Subsection (b) or (c) of Section 4 of this Act; or

(4) does not attend at least one-half of the regularly scheduled meetings held in a calendar year, excluding meetings held while the person was not a member.

(c) If a ground for removal of a member from the Board exists, the Board's actions taken during the existence of the ground for removal are not invalid for that reason.

Sec. 7. ORGANIZATION AND MEETINGS OF THE BOARD. (a) ~~The Board shall hold [a meeting within thirty (30) days after its members are first appointed, and thereafter shall hold]~~ at least two (2) regular meetings each year. Special meetings shall be held at such time as the by-laws of the Board may provide. ~~[Notice of all meetings shall be given in such manner as the by-laws may provide.]~~ The Board shall elect or appoint annually from its own membership the following officers: a Chairman, a Vice-Chairman, and a Secretary. A quorum of the Board shall consist of not less than five (5) ~~four (4)]~~ members.

(b) The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The director of the Board or his designee shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job-opening with the Board in a nonentry level position. The intra-agency posting shall be made at least ten (10) days before any public posting is made.

(d) The executive head of the Board or his designee shall develop a system of annual performance evaluations of the Board's employees based on measurable job tasks. Any merit pay authorized by the executive head shall be based on the system established under this subsection.

Sec. 8. POWERS OF BOARD; VIOLATIONS OF RULES AND REGULATIONS; ACTIONS AND PROCEEDINGS. (a) The Board shall have the authority and power to make and enforce all rules and regulations necessary for the performance of its duties, to establish standards of conduct and ethics for engineers in keeping with the purposes and intent of this Act or to insure strict compliance with an enforcement of this Act. The violation by any engineer of any provision of this Act or any rule or regulation of the Board shall be a sufficient reason or ground to suspend or revoke the certificate of registration of or to issue a formal or informal reprimand to such engineer. In addition to any other action, proceeding or remedy authorized by law, the Board shall have the right to institute an action in its own name against any individual person to enjoin any violation of any provision of this Act or any rule or regulation of the Board and in order for the Board to sustain such action it shall not be necessary to allege or prove, either that an adequate remedy at law

does not exist, or that substantial or irreparable damage would result from the continued violation thereof. Either party to such action may appeal to the appellate court having jurisdiction of said cause. The Board shall not be required to give any appeal bond in any cause arising under this Act. The Attorney General shall represent the Board in all actions and proceedings to enforce the provisions of this Act.

(b) The Board may promulgate rules restricting competitive bidding. The Board may not promulgate rules restricting advertising by licensees except to prohibit false, misleading, or deceptive practices by licensees. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

(1) restricts the person's use of any medium for advertising;  
(2) restricts the person's personal appearance or use of his personal voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(c) The Board may recognize, prepare, or administer continuing education programs for persons regulated by the Board under this Act. Participation in the programs is voluntary.

(d) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board receives the committee's statements.

Sec. 10. RECORDS AND REPORTS. (a) The Board shall keep a record of its proceedings and register of all applications for registration, which register shall show (a) the name, age and residence of each applicant; (b) the date of the application; (c) the place of business of such applicant; (d) his educational and other qualifications; (e) whether or not an examination was required; (f) whether the applicant was rejected; (g) whether a certificate of registration was granted; (h) the date of the action of the Board; and (i) such other information as may be deemed necessary by the Board.

The records of the Board shall be available to the public at all times and shall be prima facie evidence of the proceedings of the Board set forth therein, and a transcript thereof, duly certified by the Secretary of the Board under seal, shall be admissible in evidence with the same force and effect as if the original was produced.

~~[Annually, as of August 31st, the Board shall submit to the Governor a report of its transaction of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the Board, attested by affidavits of its Chairman and its Secretary.]~~

(b) On or before January 1 of each year, the Board shall file with the Governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the Board in the preceding year.

(c) The State Auditor shall audit the financial transactions of the Board in each fiscal biennium.

Sec. 11. ROSTER OF REGISTERED ENGINEERS. A roster showing the names and places of business of all registered professional engineers shall be prepared and published by the Board each biennium at a time determined by the Board. Copies of this roster shall be furnished without charge to any engineer licensed by the Board on the written request of the engineer, placed on

file with the Secretary of State, and furnished to any person upon written request who tenders a reproduction fee set by the Board [~~in an amount not to exceed Five Dollars (\$5.00)~~].

Sec. 12a. CERTIFICATION OF ENGINEER-IN-TRAINING. (a) The term "Engineer-in-Training," as used in this Section shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in Sections 12 and 14 of this Act.

(b) The following shall be considered as minimum evidence that the applicant is qualified for certification as an Engineer-in-Training:

(1) A graduate of an approved engineering curriculum of four (4) years or more who has passed the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified; or

(2) An applicant having a high school education and a specific record of eight (8) or more years of experience or having completed an approved four (4) year curriculum in engineering technology with six (6) years of experience in engineering work of a grade and character satisfactory to the Board, who passes the Board's eight (8) hour written examination in the fundamentals of engineering shall be certified or enrolled as an Engineer-in-Training, if he is otherwise qualified.

(c) The fee for Engineer-in-Training certification or enrollment shall be established by the Board [~~in an amount not to exceed Ten Dollars (\$10);~~] and shall accompany the application. This fee may be credited toward the fee [~~Twenty five Dollars (\$25)~~] necessary for registration.

(d) The certification or enrollment of an Engineer-in-Training shall be valid for a period of twelve (12) years.

Sec. 13. APPLICATIONS AND REGISTRATION FEES. Applications for registration shall be on forms prescribed and furnished by the Board, shall contain statements made under oath, showing the applicant's education and a detailed summary of his actual engineering work, and shall contain not less than five (5) references, of whom three (3) or more shall be engineers having personal knowledge of his engineering experience.

The Board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

1. Registration fee	\$ 50
2. Annual renewal fee	45
3. Reciprocal registration fee	50
4. Duplicate certificate of registration	5
5. Engineer-in-training certificate	15
6. Roster of engineers	10
7. Examination fee	75

The board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement. [~~registration fee for professional engineers shall be Fifty Dollars (\$50.00)~~].

Sec. 14. EXAMINATIONS. (a) When oral or written examinations are required, they shall be held at such time and place as the Board shall determine. The scope of the examinations and the methods of procedure shall be prescribed by the Board with special reference to the applicant's ability to design and supervise engineering works, which shall insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration in professional engineering. A candidate failing on examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fees.

Re-examination may be granted at any time upon payment of a fee to be determined by the Board.

(b) Within 30 days after the day on which a licensing examination is administered under this Act, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two weeks after the day that the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested in writing by a person who fails the licensing examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

(d) The Board may administer written examinations for record purposes as a convenience to the public and may charge an appropriate fee.

Sec. 16. EXPIRATIONS AND RENEWALS. (a) It shall be the duty of the Board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate.

(b) A person may renew an unexpired license by paying to the Board before the expiration date of the license the required renewal fee.

(c) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the Board the required renewal fee and a fee that is one-half of the application fee for the license.

(d) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to the application fee for the license.

(e) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by submitting to an examination to be determined by the Board and complying with the requirements and procedures for obtaining an original license. [Renewal may be effected by the payment of a renewal fee set by the Board not to exceed Forty five Dollars (\$45.00). The Board is hereby given authority and duty to determine the amount of such renewal fee required to effectively carry out the administration and enforcement of all the provisions of this Act. Failure on the part of any registered engineer to renew his certificate annually shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate when the renewal is past due shall be increased ten per cent (10%) for each month or fraction of a month that renewal payment is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.]

Sec. 21. RECIPROCITY. The Board may, upon application therefor, and the payment of a fee [of Ten (\$10.00) Dollars], issue a certificate of registration as a professional engineer to any person who holds a certificate of qualification or registration issued to him by proper authority of the National Council of State Boards of Engineering Examiners, or of the National Bureau of Engineering Registration, or of any state or territory or possession of the United States, or any country provided that the requirements for the registration of professional engineers under which said certificate of qualification or registration was issued do not conflict with the provisions of this Act and are of a standard not lower than that specified in Section 12 of this Act. The Board may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this State.

Sec. 22. REVOCATION, SUSPENSION, PROBATION, REPRIMAND, RE-ISSUANCE AND REFUSAL OF CERTIFICATE ~~[REVOCATIONS AND RE-ISSUANCES OF CERTIFICATES]~~. The Board shall revoke, suspend, or refuse to renew a registration, shall reprimand a registrant, or may probate any suspension ~~[have the power to revoke the certificate of registration]~~ of any registrant who is found guilty of:

(a) The practice of any fraud or deceit in obtaining a certificate of registration;

(b) Any gross negligence, incompetency, or misconduct in the practice of professional engineering as a registered professional engineer; or

(c) A violation of this Act or a Board rule.

~~[In determining any such charges the Board shall proceed upon sworn information furnished it by any reliable resident of this State; such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three (3) copies of the same shall be filed with the Secretary of the Board. Upon receipt of such information the Board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the Secretary of the Board shall cause a copy of the Board's order and of the information to be served upon the accused at least thirty (30) days before the date appointed in the order for the hearing. The accused may appear in person or by counsel, or both, at the time and place named in the order and make his defense to the same. If the accused fails or refuses to appear, the Board may proceed to hear and determine the charges in his absence. If the accused pleads guilty, or upon a hearing of the charges the Board and a majority of its members shall find them to be true, it may enter an order revoking the certificate of registration of such registered professional engineer. The Board shall have the power, through its Chairman or Secretary, to administer oaths and compel the attendance of witnesses before it as in civil cases in the district court by subpoena issued over the signature of the Secretary and seal of the Board. If the accused desires the evidence to be preserved and shall so inform the Board before the hearing is begun and shall deposit with the Board such a sum of money as the Board may deem reasonably necessary for the employment of a stenographer, then the Board shall employ such stenographer and when so employed he shall be the official stenographer of the Board for the purpose of reporting the evidence and proceedings of such Board. In proceedings under this section, as under others, a majority of the Board shall constitute a quorum.]~~

~~[When the Board has completed such hearing it shall make a record of its findings and order and shall cause a certified copy thereof to be forwarded to the accused.]~~

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration by the Board, as hereinabove authorized, shall have the right to file suit ~~[within thirty (30) days after receiving notice of the Board's order revoking his certificate of registration,]~~ in the district court of the county of his residence, or of the county in which the alleged offense relied upon as grounds for revocation took place, to annul or vacate the order of the Board revoking the certificate of registration. ~~[Said suit shall be filed against the Board as defendant, and service of process may be had upon its Chairman or Secretary. The suit shall be tried as other civil causes, the burden of proof devolving upon the plaintiff assailing the order of revocation.]~~

If the Board proposes to suspend or revoke a person's certificate of registration, the person is entitled to a hearing before the Board. Proceedings for the suspension or revocation of a certificate of registration are governed by

the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

The Board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, provided six (6) ~~four (4)]~~ or more members of the Board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the Board, ~~and a charge of Three (\$3.00) Dollars shall be made for such issuance].~~

Sec. 22A. INFORMATION ABOUT COMPLAINTS. (a) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

(b) If a written complaint is filed with the Board relating to a licensee, the Board, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

Sec. 22B. CONSUMER INFORMATION. The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board's procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make information available to the general public and appropriate state agencies.

SECTION 2. (a) A person holding office as a member of the State Board of Registration for Professional Engineers on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(b) The governor shall appoint three public members to the board. The governor shall designate one public member for a term expiring in 1983, one for a term expiring in 1985, and one for a term expiring in 1987. The terms of office of these appointees begin on the day in 1981 on which the terms of other members of the board begin.

SECTION 3. A rule adopted by the State Board of Registration for Professional Engineers before September 1, 1981, that conflicts with the Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule.

SECTION 4. (a) This Act takes effect September 1, 1981.

(b) The requirements of Sections 7(c) and (d), The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), as added by this Act, that the executive head of the board develop a career ladder program and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 7(d) that merit pay is to be based on this system shall be implemented before September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 915 WITH HOUSE AMENDMENT**

Senator Traeger called **S.B. 915** from the President's table for consideration of the House amendment to the bill.

Senator Traeger moved to concur in the House amendment.

On motion of Senator Traeger and by unanimous consent, the motion to concur was withdrawn.

**SENATE BILL 486 WITH HOUSE AMENDMENT**

Senator Harris called **S.B. 486** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for **S.B. 486**:

**A BILL TO BE ENTITLED  
AN ACT**

relating to continuation of the Texas Amusement Machine Commission and regulation of the amusement machine business; providing a penalty.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** Sections 1, 1B, 3, 4, and 7, Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971, as amended (Article 4413(41), Vernon's Texas Civil Statutes), are amended to read follows:

Sec. 1. (a) There is hereby created an agency of the State of Texas which shall be designated as the Texas Amusement Machine Commission; said Commission shall consist of three (3) members to be appointed by the Governor with the advice and consent of the Senate and three (3) ex officio members, who shall have the right to vote, to be the Director of the Department of Public Safety, or his nominee; the Commissioner of Consumer Credit, or his nominee; and the Attorney General, or his nominee. The appointments shall be made without regard to the race, creed, sex, religion, or national origin of the appointees. None of the three appointed members, shall be or have ever been an "owner" or "operator" of any "coin-operated" machine as those terms are defined in Chapter 13, Title 122A, Taxation—General, Revised Civil Statutes of Texas, as amended. Members of the Commission shall serve for six (6) years. Appointees shall hold office until their successors are appointed and qualified.

(b) A member or employee of the Commission may not be an officer, employee, or paid consultant of a trade association in the coin-operated machine industry. A member or employee of the Commission may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(c) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Commission or act as the general counsel to the Commission.

(d) It is a ground for removal from the Commission if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) of this section for appointment to the Commission;

(2) does not maintain during his service on the Commission the qualifications required by Subsection (a) of this section for appointment to the Commission;

(3) violates a prohibition established by Subsection (b) or (c) of this section; or

(4) fails to attend at least half of the regularly scheduled Commission meetings held in a calendar year, excluding meetings held while the person was not a member of the Commission.

(e) The validity of an action of the Commission is not affected by the fact that it was taken when a ground for removal of a member of the Commission existed.

(f) The Commission is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 1B. The Texas Amusement Machine Commission is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the commission is abolished, and this Act expires effective September 1, 1993 [1981].

Sec. 3. (a) The Texas Amusement Machine [Vending] Commission shall be empowered to hire and employ an Executive Director and such other personnel as may be required and necessary to carry out the duties, functions, responsibilities and authority of said Commission including professional consultants. The Executive Director of the Commission and other personnel shall receive such compensation as may be set by the Commission, exclusive of any necessary expenses incurred in the performance of official duties, as shall be appropriated by the Legislature.

(b) The Executive Director or his designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay authorized by the Executive Director must be based on the system established under this subsection.

Sec. 4. All members of the Commission shall be entitled to a per diem as set by legislative appropriation [~~compensated in an amount of Thirty five Dollars (\$35.00) per day~~] for each day they are actually engaged in performing their duties whether or not in attendance at a meeting; provided, however, they shall not draw compensation for more than sixty (60) days in any one fiscal year. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act. [~~In addition to the per diem provided for herein, members of the Commission shall be reimbursed for their actual and necessary traveling expenses in the performance of their duties.~~]

Sec. 7. (a) All funds received by the Commission for license fees pursuant to Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, as amended, shall be deposited to the General Revenue. All money to be expended by the Commission shall be appropriated out of the General Revenue Fund.

(b) The state auditor shall audit the financial transactions of the Commission during each fiscal year.

(c) On or before January 1 of each year, the Commission shall make in writing to the Governor and the presiding officer of each house of the



Legislature a complete and detailed annual report accounting for all funds received and disbursed by the Commission during the preceding year.

SECTION 2. Section (1), Article 13.02, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

(1) Every "owner", save an owner holding an import license and holding coin-operated machines solely for re-sale, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 13.01, except as are exempt herein, an annual occupation tax of \$15.00. The tax shall be paid to the commission by cashier's check or money order.

SECTION 3. Article 13.13, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows:

Art. 13.13. SEALING MACHINE TO PREVENT OPERATIONS; PENALTY FOR BREAKING SEAL. Provided that the commission or its authorized representatives, may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. Whoever shall break the seal affixed by said commission or its authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken or shall remove any coin-operated machine from location after the same has been sealed by the commission shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Article 13.12 of this Chapter. The commission shall charge a fee of \$25.00 for the release of any coin-operated machine sealed for nonpayment of tax. The fee shall be paid to the commission by cashier's check or money order.

SECTION 4. Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended by amending Sections 9, 19, and 20, and by adding Sections 4A, 7A, and 20A to read as follows:

Sec. 4A. DISPOSITION OF FEES. Fees received by the commission under this Article shall be deposited in the State Treasury to the credit of the General Revenue Fund.

Sec. 7A. CONSUMER INFORMATION. (1) The commission shall prepare information of consumer interest describing the regulatory functions of the commission relating to coin-operated machines and describing the commission procedures by which consumer complaints relating to coin-operated machines are filed with and resolved by the commission. The commission shall make the information available to the general public and appropriate State agencies.

(2) Each written contract between a licensed owner and an operator in this State shall contain the name, mailing address, and telephone number of the commission.

Sec. 9. NATURE OF LICENSE. (a) A license issued under this Article:

(1) is an annual license which expires on December 31st of each year, unless it expires as provided in subdivision (5) of this Section or is suspended or cancelled earlier;

(2) is effective for a single business entity;

(3) vests no property or right in the licensee except to conduct the licensed business during the period the license is in effect;

(4) is nontransferable, nonassignable, and not subject to execution; and

(5) expires upon the death of an individual licensee, or upon the dissolution of any other licensee.

(b) An application for the renewal of a license must be made to the commission before December 1 of each year.

Sec. 19. ~~[MANDATORY]~~ GROUNDS FOR REFUSAL, SUSPENSION, OR REVOCATION OF LICENSE. (1) The commission may ~~shall~~ not issue a general business or import license for a business under this Article if it finds that the applicant:

(a) has been finally convicted of a felony in a court of competent jurisdiction during the five years preceding the filing of the application; or

(b) has been on probation or parole as a result of a felony conviction during the two years preceding the filing of the application.

(2) The commission may not issue or renew a license for a business under this Article, and shall suspend for any period of time, or cancel a license, if it finds that the applicant or licensee is indebted to the State by judgment for any fees, costs, penalties, or delinquent taxes.

(3) The commission may not issue or renew a license for a business pursuant to the terms of this Article if the applicant does not designate and maintain an office in this state or if the applicant does not permit inspection by the commission of all records which the applicant or licensee is required to maintain.

~~[(4) The commission shall issue an original license to an applicant who complies with the requirements of Subsections (1) and (2) of this Section.]~~

Sec. 20. ~~[DISCRETIONARY]~~ GROUNDS FOR REPRIMAND OF LICENSEE OR ~~[REFUSAL,]~~ SUSPENSION~~],~~ OR REVOCATION OF LICENSE. (1) A licensee may be reprimanded or a license issued pursuant to the authority of this Article may be suspended or revoked ~~[, or renewal refused,]~~ if:

(a) the licensee has intentionally violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee has intentionally failed to answer a question, or intentionally made a false statement in, or in connection with, his application or renewal;

(c) the licensee extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee uses coercion to accomplish a purpose or to engage in conduct regulated by the commission;

(e) a contract or agreement between the licensee and a location owner contains a restriction, of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article; or

(f) ~~[issuance of, or]~~ failure to suspend or revoke ~~[cancel,]~~ the license would be contrary to the intent and purpose of this Article.

(2) The commission shall conduct a hearing to ascertain whether a licensee has engaged in conduct which would be grounds for revocation or suspension. The commission shall make findings of fact, and, if the commission determines that grounds for revocation exist, the commission shall file those findings with the Attorney General. The Attorney General upon receipt of the record may institute an action to impose the penalties provided by this Act in Article 13.11 or to revoke or suspend the license. The action shall be instituted in a district court in the county of the licensee's place of business.

Sec. 20A. COMPLAINTS. (1) The commission shall maintain an information file about each complaint filed with the commission relating to a licensee.

(2) If a written complaint is filed with the commission relating to a licensee, the commission, at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

SECTION 5. Section 16, Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding Subsection (6) to read as follows:

(6) A person must renew an unexpired license by paying to the commission before the expiration date of the license the annual license fee. If a person's license has been expired for not more than 90 days, the person must renew the license by paying to the commission a fee that is 1-1/2 times the annual license fee. If a person's license has been expired for more than 90 days but less than two years, the person must renew the license by paying to the commission a fee that is two times the annual license fee. If a person's license has been expired for two years or more, the person may not renew the license. The person must obtain a new license by complying with the requirements and procedures for obtaining an original license.

SECTION 6. Section 16A, Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended by amending Subsection (4) and by adding Subsection (5) and (6) to read as follows:

(4) The fee for registration of machines affected by this section is \$50 [\$10] for the business entity in which the owner's machines are exhibited. The fee shall be paid to the commission by cashier's check or money order.

(5) An application for the renewal of a registration certificate must be made to the commission before December 1 of each year.

(6) A person must renew an unexpired registration for a machine by paying to the commission before the expiration date of the registration the required registration fee. If a person's registration has been expired for not more than 90 days, the person must renew the registration by paying to the commission a fee that is 1-1/2 times the registration fee. If a person's registration has been expired for more than 90 days but less than two years, the person must renew the registration by paying to the commission a fee that is two times the registration fee. If a person's registration has been expired for two years or more, the person may not renew the registration. The person must obtain a new registration by complying with the requirements and procedures for obtaining an original registration.

SECTION 7. Subsections (3) and (4), Section 26, Article 13.17, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, are amended to read as follows:

(3) A person who violates Subsection (1) or (2) of this Section shall be guilty of a third-degree felony.

(4) Any person required to be licensed by this Article may make an extension of credit or lend the licensee's credit to a lessee or a bailee of a music or skill or pleasure coin-operated machine, or on behalf of either for business or commercial purposes when the following terms and conditions have been met and the following duties and obligations satisfactorily assumed and discharged.

(a) Before making the first such extension of credit, the licensee under this Article shall first notify the Consumer Credit Commissioner of the State of Texas of the intent of such licensee to make extensions of credit in the conduct of the licensee's business.

(b) The consideration for such extensions of credit shall not be less than one-half percent or exceed interest or its equivalent at the rate of one and one-half percent (1-1/2%) per month, computed according to the United States Rule. Consideration excludes court costs and attorney's fees as determined by the court, but includes the aggregate interest, fees, bonuses, commissions, brokerage, discounts, expenses, and other forms of costs charged, contracted for, or received by a licensee or any other person in connection with investigating, arranging, negotiating, procuring, guaranteeing, making, servicing,

collecting, and enforcing an extension of credit or forbearance of money, credit, goods, or things in action, or any other service rendered. If in any transaction any consideration in excess of that provided above is charged or received by the licensee directly, or indirectly, except as the result of an accidental and bona fide error corrected upon discovery, the unpaid balance of the indebtedness created by such transaction shall be void, and that portion of any indebtedness so created which has been paid to the licensee, either the principal or its equivalent or interest or its equivalent, or both, shall be repaid by the licensee to the person.

(c) No extension of credit may be made by any person required to be licensed by this Article unless it is evidenced by a written agreement signed by the parties thereto specifying both the amount of credit extended, the consideration for such extension of credit, and the terms according to which such extension of credit is to be repaid.

(d) Each licensee making extensions of credit authorized by this Section shall keep in this State books and records, which shall be consistent with accepted accounting and auditing practices, relating to all such extensions of credit authorized by this Section sufficient to enable any competent person to determine whether or not such licensee is complying with this Section. Such records shall be preserved for four (4) years from the date of the transaction to which they relate, or two (2) years from the date of the final entry made with regard to such transaction, whichever is later.

(e) At such times as the Consumer Credit Commissioner may deem necessary, or at the request of the commission or the Attorney General, the Consumer Credit Commissioner, or his duly authorized representative, may make an examination of the place of business of each licensee hereunder, and may inquire into and examine the transactions, books, accounts, papers, correspondence, or records of such licensee insofar as they pertain to the extensions of credit regulated by this Section. In the course of such examinations, the Consumer Credit Commissioner or his duly authorized representative shall have free access to the office, place of business, files, safes and vaults of such licensee, and shall have the right to make copies of such books, accounts, papers, correspondence and records. The Consumer Credit Commissioner or his duly authorized representative may, during the course of such examination, administer oaths and examine any person under oath upon any subject pertinent to any matter about which the Commissioner is authorized or required by this Section to consider, investigate or secure information. Any licensee who shall fail or refuse to let the Consumer Credit Commissioner or his duly authorized representative examine or make copies of such books or other relative documents shall thereby be deemed in violation of this Section. The information obtained in the course of such examination shall be confidential. Each licensee shall pay to the Consumer Credit Commissioner an amount assessed by the Commissioner to cover the direct and indirect costs of such examination, including a proportionate share of general administrative expenses, which amount shall be retained and held by the Consumer Credit Commissioner, and no part of such fee shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Consumer Credit Commissioner in conducting such examinations shall be paid only from such fees, and no such expense shall ever be charged against the funds of this State.

(f) The Consumer Credit Commissioner may make regulations necessary for the enforcement of this Section and consistent with all its provisions. Before making a regulation the Consumer Credit Commissioner shall give each licensee at least thirty (30) days' written notice of a public hearing, stating the time and place thereof and the terms or substance of the proposed regulation. At the

hearing, any licensee or other person may be heard and may introduce evidence, data, or arguments or place the same on file. The Consumer Credit Commissioner, after consideration of all relevant matters presented, shall adopt and promulgate every regulation in written form, stating the date of adoption and date of promulgation. Each regulation shall be entered in a permanent record book which shall be a public record and be kept in the Consumer Credit Commissioner's office. A copy of every regulation shall be mailed to each licensee, and no regulation shall become effective until the expiration of at least twenty (20) days after such mailing. On the application of any person and payment of the cost thereof, the Consumer Credit Commissioner shall furnish such person a certified copy of any such regulation.

(5) [(4)] Any person who violates Subsection (4) [(3)] of this Section is guilty of a Class C misdemeanor.

SECTION 8. Section 2, Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(41), Vernon's Texas Civil Statutes), is repealed.

SECTION 9. (a) This Act takes effect September 1, 1981.

(b) The requirement under Section 3(b), Chapter 587, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4413(41), Vernon's Texas Civil Statutes), as added by this Act, that the executive director of the commission develop a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 3(b) that merit pay is to be based on that system shall be implemented before September 1, 1983.

SECTION 10. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

#### SENATE BILL 801 WITH HOUSE AMENDMENTS

Senator Harris called S.B. 801 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Wolens

Amend S.B. 801, SECTION 3, quoted Section 10 (4) by deleting the following: ~~"[There shall at all times be prominently displayed in each office registered under the provisions of this section, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the Texas State Board of Public Accountancy and which shall contain a statement informing consumers that complaints can be directed to the board.]"~~

and substituting in lieu thereof the following: "There shall at all times be prominently displayed in each office registered under the provisions of this section, a sign in letters no smaller than one inch in height, the contents of which shall contain the name, mailing address, and telephone number of the

Texas State Board of Public Accountancy and which shall contain a statement informing consumers that complaints can be directed to the board.”

Committee Amendment No. 2 - Wolens

Amend **S.B. 801**, SECTION 6, quoted Section 22 by adding a new subsection (h) to read as follows:

“(h) None of the provisions of this Section 22 shall apply to persons who have not applied to the board to take the Uniform CPA Examination or who have not applied for a license, registration, or certificate under the provisions of this Act.”

The amendments were read.

Senator Harris moved to concur in the House amendments.

The motion prevailed.

#### **SENATE CONCURRENT RESOLUTION 3 WITH HOUSE AMENDMENT**

Senator Harris called **S.C.R. 3** from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Amendment No. 1 - A. Hill

Amend **S.C.R. NO. 3** by striking the fourth paragraph, lines 16-17, and substituting the following:

“WHEREAS, Ms. Herrin alleges that she has attempted to appeal through the university appeals system with no success; and”

The amendment was read.

Senator Harris moved to concur in the House amendment.

The motion prevailed.

#### **SENATE BILL 544 WITH HOUSE AMENDMENTS**

Senator Mengden called **S.B. 544** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Burnett

Amend Senate Bill 544 by striking on page 1, lines 17, 18, and 19 beginning with the word “weapons” through the word “months.” and inserting after the word “demonstrate” the following.

“to a firearms proficiency control officer weapons proficiency based on the minimum basic training standards as prescribed by the Commission at least

once every 12 months. The records of this proficiency shall be maintained by the agency or institution that employs peace officers."

Committee Amendment No. 2 - Rudd

Amend S.B. 544, Section 2, Line 15 by adding the words "more than two" between the words "employs" and "peace".

The amendments were read.

Senator Mengden moved to concur in the House amendments.

The motion prevailed.

#### SENATE BILL 341 WITH HOUSE AMENDMENTS

Senator Caperton called S.B. 341 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Atkinson

Substitute the following for S.B. 341

#### A BILL TO BE ENTITLED AN ACT

relating to the standards and procedures for the nonrenewal of contracts for teachers under term contracts in the public schools of this state; adding Section(s) 21.201-21.211 to Subchapter G in Chapter 21 of the Texas Education Code, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act shall be known as "The Term Contract Nonrenewal Act."

SECTION 2. Chapter 21, Subchapter G, Texas Education Code, as amended, is amended by adding Section(s) 21.201-21.211 to read as follows:

##### Subsection 21.201 Definitions

As used in this Subchapter, the following terms shall have the meaning ascribed to them in this section.

(1) "Teacher" means a superintendent, principal, supervisor, classroom teacher, counselor, or other full-time professional employee, except paraprofessional personnel, who is required to hold a valid certificate or teaching permit.

(2) "Board" and "Board of Trustees" means the governing board of a public school district.

(3) "School district" means any public school district in this state.

(4) "Term contract" means any contract of employment for a fixed term between the school district and a teacher.

##### Subsection 21.202 Teacher Evaluations

The board of trustees of each school district shall provide by written policy for the periodic written evaluation of each teacher in its employ at annual or more frequent intervals. Such evaluation shall be considered by the board of trustees prior to any decision by the board not to renew the term contract of any teacher.

**Subsection 21.203 Nonrenewal of Term Contracts**

(a) The board of trustees of each school district may choose not to renew the employment of any teacher employed under a term contract effective at the end of the contract period.

(b) The board of trustees of each school district shall establish policies consistent with this Subchapter which shall establish reasons for nonrenewal.

(c) The board of trustees of each school district shall establish policies and procedures for receiving recommendations from its school administration for the nonrenewal of teacher term contracts, excepting only the general superintendent of schools.

**Subsection 21.204 Notice**

(a) In the event the board of trustees receives a recommendation for nonrenewal, the board, after consideration of the written evaluations required by Section 21.202 of this Subchapter and the reasons for the recommendation, shall, in its sole discretion, either reject the recommendation or shall give the teacher written notice of the proposed nonrenewal on or before April 1, preceding the end of the employment term fixed in the contract.

(b) In the event of failure to give such notice of proposed nonrenewal within the time herein specified, the board of trustees shall thereby elect to employ such employee in the same capacity for the succeeding school year.

(c) The notice of proposed non-renewal required in this Section shall contain a statement of all the reasons for such proposed action.

**Subsection 21.205 Hearing**

(a) If, after receipt of the notice of the proposed nonrenewal the teacher desires a hearing on the same, he shall notify in writing the board of trustees within 10 days of the receipt of the notice of his desire to be heard, and the board shall provide a hearing within 15 days, which may be closed unless otherwise requested by the employee.

(b) The hearing shall be conducted in accordance with rules promulgated by the district.

**Subsection 21.206 Decision of Board**

(a) If the teacher fails to request a hearing within the 10 days as hereinabove provided, or after a hearing, the board of trustees shall take such action and shall enter a written decision, if adverse to the teacher, as it deems lawful and appropriate.

(b) The decision of the board of trustees not to renew the teacher's term contract shall be communicated in writing to the teacher within 15 days following the conclusion of the hearing.

**Subsection 21.207 Appeal**

(a) If the teacher is aggrieved by the decision of the board of trustees, he may appeal to the State Commissioner of Education pursuant to Section 11.13 of this Code. The Commissioner may not substitute his judgment for that of the board of trustees, unless the decision below was arbitrary, capricious, unlawful, or not supported by substantial evidence.

(b) The State Board of Education shall have jurisdiction to hear appeals from such decisions of the State Commissioner of Education.

**Subsection 21.208 Superintendents**

If a majority of the board of trustees of any school district shall determine that the term contract of the general superintendent of schools should be considered for nonrenewal, the provisions of this Subchapter shall apply except that there need not be a recommendation from designated school administration.

**Subsection 21.209 Probation**



The board of trustees of any school district may provide by written policy for a probationary period not to exceed 2 years of continuous employment, in which case the provisions of this Subchapter shall not apply during such probationary period.

**Subsection 21.210 Discharge for Cause**

Nothing in this Subchapter shall prohibit a board of trustees from discharging a teacher for cause, as determined by board policies, during the term of the contract.

**Subsection 21.211 Exemptions**

This Subchapter does not apply to teachers who are employed under the provisions of the probationary or continuing contract law as set out in Subchapter C, Chapter 13 of this Code.

**SECTION 3.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in full force from and after its passage, and it is so enacted.

**Floor Amendment No. 1 - Atkinson**

Amend Senate Bill 341, SECTION 2, by amending Subsection 21.204(b) on page 2 to read as follows:

(b) In the event of failure to give such notice of proposed nonrenewal within the time herein specified, the board of trustees shall thereby elect to employ such employee in the same professional capacity for the succeeding school year.

**Floor Amendment No. 2 - Atkinson**

Amend Senate Bill 341, SECTION 2, by amending Subsection 21.205(a) on page 3 to read as follows:

(a) If the teacher desires a hearing after receiving notice of the proposed nonrenewal, the teacher shall notify the board of trustees in writing within 10 days after receiving the notice of nonrenewal. The board shall provide for a hearing to be held within 15 days after receiving written notice from the teacher requesting a hearing. Such hearing shall be closed unless an open hearing is requested by the employee.

**Floor Amendment No. 3 - Atkinson**

Amend Senate Bill 341, SECTION 2, by amending Subsection 21.206 on page 3 to read as follows:

**Subsection 21.206 Decision of Board**

(a) If the teacher fails to request a hearing, the board shall take such action as it deems lawful and appropriate, and shall notify the employee in writing of that action within 15 days of the expiration of the 10-day period for requesting a hearing.

(b) If the teacher requests a hearing, the board shall take such action as it deems lawful and appropriate, and shall notify the teacher in writing of that action within 15 days following the conclusion of the hearing.

## Floor Amendment No. 4 - Atkinson

Amend Senate Bill 341, SECTION 2, by amending Subsection 21.209 on page 4 to read as follows:

## Subsection 21.209 Probation

The board of trustees of any school district may provide by written policy for a probationary period not to exceed the first 2 years of continuous employment in the district, in which case the provisions of this Subchapter shall not apply during such probationary period.

## Floor Amendment No. 5 - Atkinson

Amend Senate Bill 341, SECTION 2, by amending Subsection 21.210 on page 4 to read as follows:

## Subsection 21.210 Discharge for Cause

Nothing in this Subchapter shall prohibit a board of trustees from discharging a teacher for cause, ~~as determined by board policies~~, during the term of the contract.

The amendments were read.

Senator Caperton moved to concur in the House amendments.

The motion prevailed.

**SENATE BILL 915 WITH HOUSE AMENDMENT**

Senator Traeger called **S.B. 915** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

## Committee Amendment No. 1 - Evans

Substitute the following for **S.B. 915**:

**A BILL TO BE ENTITLED  
AN ACT**

relating to continuation of the functions of the Texas Water Well Drillers Board and regulation of water well drillers.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:**

**SECTION 1.** The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes), is amended to read as follows:

**Sec. 1. SHORT TITLE.** This Act shall be known and may be cited as "The Water Well Drillers Act."

**Sec. 2. DEFINITIONS.** The following words and phrases as used in this Act shall have the following meanings unless a different meaning clearly appears from the context. The singular form shall also mean plural form and the masculine gender shall also include the feminine and neuter genders.

(a) "Person" shall mean any individual, whether or not connected with a firm, partnership, association, corporation, or any other group or combination acting as a unit.

~~[(b)]~~ "Commission" shall mean the Texas Water Commission or its successor.]

~~(b)~~ [(e)] "Board" shall mean the Texas Water Well Drillers Board.

~~(c)~~ "Executive director" shall mean the executive director of the Texas Department of Water Resources.

~~(d)~~ "Department" shall mean the Texas Department of Water Resources.

~~(c)~~ [(d)] "Water well" shall mean any artificial excavation constructed for the purpose of exploring for or producing ground water. The term, however, shall not include any test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other minerals unless the holes are used to produce ground water.

~~(f)~~ [(e)] "Water well driller" shall mean any person (including owner, operator, and drilling supervisor) who engages for compensation in the drilling, boring, coring, or construction of any water well in this State. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his own property for his own use or a person who assists in the construction of a water well under the direct supervision of a licensed [registered] water well driller and is not primarily responsible for the drilling operations.

~~(g)~~ [(f)] "Licensed [Registered] water well driller" shall mean any person who holds a license [certificate] issued by the State of Texas pursuant to the provisions of this Act.

~~(h)~~ [(g)] "Pollution" shall mean the changing of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in a way that makes the water harmful to humans, animal life, vegetation, or property or to the public health, safety, or welfare or that impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose [an impairment of the physical, chemical, or biological properties of water by the acts or instrumentalities of man to a degree which results in a material and adverse effect upon the quality as to destroy possible consumptive or beneficial use of such waters].

~~(i)~~ [(h)] "Well log" shall mean a log accurately kept, at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, depth, size and character of casing installed, together with any other data or information required by the Board, on forms prescribed by the Board.

~~(j)~~ [(i)] "Water Well Drillers Board" shall mean an examining board consisting of nine (9) members, ~~all [three of whom shall be ex officio nonvoting members and six]~~ of whom shall be voting members appointed by the Governor with the advice and consent of the Senate as hereinafter provided.

~~(k)~~ [(j)] "License [Registration] fee" shall mean the initial fee to be paid by a driller under this Act [~~which shall be, unless otherwise provided herein, \$25.00~~].

~~(l)~~ [(k)] "Renewal fee" shall mean that fee paid by a previously licensed [registered] driller [~~which shall be \$25.00 per annum~~].

~~(m)~~ [(l)] "Examination fee" shall mean that [~~\$10.00~~] non-refundable fee required of each applicant for each examination.

Sec. 3. LICENSE [REGISTRATION] REQUIRED. (a) It shall be unlawful for any person to act as or to offer to perform services as a water well driller without first obtaining a license [~~certificate of registration~~] in the manner prescribed herein and pursuant to the rules of the Water Well Drillers Board.

(b) Applications shall contain the name of the applicant, his business address, his permanent mailing address, and such other relevant information as the Board may require.

(c) At the time of making application, each applicant shall pay to the department ~~[Commission]~~ the required examination fee which shall be non-refundable; and the successful candidates upon notification of eligibility shall pay to the department ~~[Commission]~~ the license ~~[registration]~~ fee.

(d) All licenses ~~[certificates of registration]~~ issued under this Act shall expire on August 31 of each year; and on or before that day, each person holding a license ~~[certificate of registration]~~ shall pay to the department ~~[Commission the sum of \$25.00 as]~~ an annual renewal fee. ~~[Provided further, however, any driller who allows his license to lapse shall be given a one year grace period in which to renew his certificate by paying the accrued renewal fee, without the need of taking the drillers examination.]~~ The department shall notify each licensee in writing of the licensee's impending license expiration at least 30 days before the expiration and shall attempt to obtain from each licensee a signed statement confirming receipt of the notice. A person may renew his unexpired license by paying to the department before the expiration date of the license the required renewal fee. If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a fee that is one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a fee that is equal to the examination fee for the license. If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(e) The department shall maintain a current register of licensees.

(f) ~~(e)~~ A license ~~[certificate of registration]~~ shall not be transferable or assignable.

(g) ~~(f)~~ A duplicate license ~~[certificate of registration]~~ to replace a lost or destroyed license ~~[certificate]~~ shall be issued by the department ~~[Commission]~~ upon proper application and payment of a ~~[\$1.00]~~ fee.

~~(g) Any water well driller in this State on the effective date of this Act shall be entitled to a certificate of registration upon the filing of an application no later than August 31, 1966, and the payment of a \$25.00 registration or renewal fee.]~~

(h) The Board shall establish for the administration of this Act reasonable and necessary fees not exceeding the following amounts:

1. Examination	\$ 25
2. License	100
3. Renewal	100
4. Duplicate License	10

(i) The board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

(j) ~~(h)~~ Each applicant shall have been a resident of the State of Texas for not less than 90 days prior to making application for a license ~~[registration]~~ as a water well driller.

Sec. 3A. LICENSES. The board by rule may adopt a system under which licenses ~~[certificates of registration]~~ expire on various dates during the year. For the year in which the license ~~[certification]~~ expiration date is changed, license ~~[certificate]~~ renewal fees payable on August 31 shall be prorated on a monthly basis so that each license ~~[certificate]~~ holder shall pay only that portion of the license ~~[certification]~~ renewal fee which is allocable to the number of months during which the license ~~[certification]~~ is valid. On renewal of the license ~~[certification]~~ on the new expiration date, the total license ~~[certification]~~ renewal fee is payable.

Sec. 4. ENDORSEMENT [RECIPROCITY]. The Board may develop rules specifying grounds by which the department may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this State [The Commission, upon application therefor and upon the payment of the proper registration fee, may issue a certificate of registration as a registered water well driller to any person who holds a certificate of qualification or registration issued to him by proper authority in any state or territory or possession of the United States, or of any other country, if the registration standard under which said certificate was issued is of a standard not lower than that specified by the provisions of this Act, and the rules of the Water Well Drillers Board promulgated pursuant to the provisions hereof, and if that particular state, territory, or possession of the United States, or country extends similar privileges to the persons registered under the provisions of this Act, provided, however, that before such applicant may be registered, he must show compliance with the residency requirements of Section 3, subsection (b) hereof. The Board shall keep the Commission informed of what states, territories, possessions, and countries fulfill these reciprocal requirements.].

Sec. 5. REPORTING OF WELL LOGS. Every licensed [registered] water well driller drilling, deepening or otherwise altering a water well within this State shall make and keep, or cause to be made and kept, a legible and accurate well log, and within 30 [sixty-(60)] days from the completion or cessation of drilling, deepening or otherwise altering such a water well, shall deliver or transmit by certified mail a copy of such well log to the department [Commission], and the owner thereof or the person having had such well drilled. Each copy of a well log, other than a department copy, shall include the name, mailing address, and telephone number of the Board and the department. The well log required herein shall at the request in writing to the department [Commission], by certified mail, by the owner or the person having such well drilled be held as confidential matter and not made of public record.

Sec. 6. WATER WELL DRILLERS BOARD. (a) The Water Well Drillers Board shall be composed of nine (9) members appointed by the governor with the advice and consent of the Senate. [~~three ex officio and six appointed as follows, to wit:~~] Appointments to the Board shall be made without regard to the race, creed, sex, religion or national origin of the appointees.

[~~(a) One (1) member of the Board shall be the chairman of the Texas Water Commission or a representative from his staff appointed by him who shall be a nonvoting member and shall serve in an advisory capacity only. In the event that the functions of the Texas Water Commission are transferred to the Texas Water Development Board, then the member appointed hereby shall be the Executive Director of the Texas Water Development Board or a representative from his staff appointed by him.~~

[~~(b) One (1) member shall be the Executive Secretary of the State Water Pollution Control Board or a representative from his staff appointed by him and shall also be a nonvoting member and shall serve in advisory capacity only.~~

[~~(c) One (1) member shall be the chairman of the State Board of Health or a representative from his staff appointed by him and shall also be a nonvoting member and shall serve in an advisory capacity only.]~~

(b) [(d)] Six (6) members shall be water well drillers who have [appointed by the Governor with the advice and consent of the Senate, under] the following qualifications [conditions, to wit]:

(1) Each such driller shall be a citizen of the State of Texas.

(2) Each such driller shall have [a minimum of ten years'] experience in the water well drilling business prior to his appointment.

(3) Each such driller shall be conversant in water well drilling, completion and plugging methods and techniques.

(4) Each such driller shall be a licensed ~~registered~~ water well driller.

(5) One driller shall be selected from the State at large and one of each such drillers shall be selected from the following geographic areas of the State of Texas:

- A. Gulf Coast Area.
- B. Trans-Pecos Area.
- C. Central Texas Area.
- D. North-East Texas Area.
- E. Panhandle-South Plains Area.

(6) ~~[(e)]~~ It is further provided that no more than one (1) driller ~~Board~~ member may be employed by or own an interest in the same company, firm or business association which is engaged in any phase of the water well drilling business.

~~[(f)] The first six (6) Board members shall be appointed for the following terms: two (2) for two (2) years, two (2) for four (4) years, and two (2) for six (6) years.]~~

(c) Three (3) members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of water well drilling; or

(2) is employed by, participates in the management of, or has, other than as a consumer, a financial interest in, a business entity or other organization related to the field of water well drilling.

(d) A Board member or an employee of the Board or the department connected with the administration of this Act may not be an officer, employee, or paid consultant of a trade association in the water well drilling industry and may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(e) A person who, because of his activities on behalf of a trade or professional association in the regulated profession, is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(f) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) or (c) of this section for appointment to the Board;

(2) does not maintain during his service on the Board the qualifications required by Subsection (b) or (c) of this section for appointment to the Board;

(3) violates a prohibition prescribed by Subsection (d) or (e) of this section; or

(4) fails to attend at least one-half of the regularly scheduled meetings held each year, excluding meetings held when the person was not a Board member.

(g) All terms shall expire on September 15 and all regular appointments shall be for terms of six (6) years.

~~[(h)] The initial appointments of the six (6) members shall be made immediately following the effective date of this Act.~~

~~[(i)] The six (6) appointed Board members shall receive compensation and travel allowance as the Legislature may provide in the General Appropriation Act.]~~

(h) Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act.

(i) ~~(j)~~ The Board shall hold meetings ~~[a regular annual meeting, it may hold special meetings]~~ at the call of the chairman ~~[or at the request of three Board members]~~. Meetings shall be conducted in compliance with Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(j) ~~(k)~~ A majority of the Board is a quorum for conducting business.

(k) ~~(l)~~ The Board shall elect a chairman ~~[- who shall be presiding officer, and who shall not vote except when there shall be a tie vote,]~~ by a majority vote at the first ~~[regular]~~ meeting each year.

The board may recognize, prepare, or carry out continuing education programs for its licensees. Participation in the programs is voluntary.

(l) ~~(m)~~ The Board shall prepare ~~[and grade]~~ examinations and pass upon qualifications of applicants for licenses and cause to be issued licenses to those who qualify.

(m) ~~(n)~~ The Board shall design written examinations in such a manner as to disqualify any person lacking in the necessary knowledge of drilling, completion and plugging methods and techniques and of ground water formations to the extent that the performance by such person of services as a water well driller would create a serious risk of polluting fresh water. Provided, however, that each applicant shall have the right to have such examination given him orally, in lieu of in writing.

~~(n) A person who passes the examination given by the Board is entitled to be licensed under this Act.]~~

(n) ~~(p)~~ Administration of examination:

(1) The department ~~[Commission]~~ shall offer examinations prepared by the Board at least once a year and more frequently if more than 10 persons petition the Board ~~[Commission]~~ for an additional examination, or the Board should so provide.

(2) The examination shall be so administered so that the one who grades an examination does not know whose paper he is grading.

(3) The department ~~[Commission]~~ shall maintain files of examination papers. Not later than the 30th day after the date a licensing examination is administered under this Act, the department shall notify each examinee of the results of the examination. A person, at any time within six months of the date that he is notified of the results of an examination, is entitled to inspect his examination paper during normal business hours at the department's offices ~~[Commission's office]~~ for the purpose of challenging the propriety of the questions, the method of grading, and the accuracy of grading. If requested in writing by a person who fails the licensing examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

~~[(4) All successful applicants who pass the examination may pay the \$25.00 registration fee to the Commission and obtain a drillers registration certificate.]~~

(o) ~~(q)~~ The person who fails an examination may apply for a subsequent examination, but must pay the examination ~~[application]~~ fee each time he applies. ~~[He may not, however, be counted among the ten (10) applicants necessary to petition for an additional examination.]~~

Sec. 6a. APPLICATION OF SUNSET ACT. The Texas Water Well Drillers Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). ~~Unless [and unless]~~ continued in existence as provided by that Act, the board is abolished, and this Act expires effective September 1, 1993 [1981].

Sec. 7. RULES AND REGULATIONS. (a) The Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of this Act, including all rules governing applications for a license ~~[registration certificates]~~, qualifications of applicants, marking of water well drilling rigs and equipment, standards of conduct for ~~licensed [registered]~~ water well drillers and all rules governing procedure and practice before the Board. Be it further provided, however, that before the Board may adopt any substantive rule under this Act, it must mail a copy of the proposed rule or amendment together with an informative summary of the rule or amendment to each person licensed under this Act, at least twenty (20) days prior to the proposed adoption ~~[effective]~~ date of such a proposed rule. ~~[The procedural rules adopted by the Board shall be filed with the Secretary of State and shall become effective thirty (30) days thereafter.]~~

(b) Full authority is given the Board to enforce by injunction or other appropriate remedy, in courts of competent jurisdiction, any and all reasonable rules, regulations, decisions, determinations and orders promulgated by it which do not conflict with any law. It shall be the duty of the Attorney General to represent the Board when requested to do so.

(c) The Board shall propose and adopt all rules in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). ~~[All rules and regulations proposed to be adopted and promulgated by the Board shall be approved in writing by the Attorney General and placed on file in the office of the Secretary of State for public inspection for at least thirty (30) days prior to their effective date. Any changes, alterations or revocations of such rules and regulations shall be likewise approved in writing by the Attorney General and which changes, alterations or revocations shall be filed in the office of Secretary of State prior to their effective date.]~~

Sec. 8. REVOCATION OF LICENSES ~~[CERTIFICATES OF REGISTRATION]~~. (a) The Board shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this Act or a rule adopted by the Board under this Act ~~[certificate of registration of any registered water well driller who violates any provision of this Act or any substantive rule or regulation of the Board promulgated under the authority of this Act may be revoked or suspended by the Board]~~. Grounds for revocation, ~~[or]~~ suspension, probation, or reprimand ~~[of a driller's certificate]~~ shall include intentional misstatement or misrepresentation of fact on an application or well log; failure to keep and transmit water well logs as provided herein; failure to advise a person for whom a well is being drilled that injurious water has been encountered, is a pollution hazard, and must be forthwith plugged in an acceptable manner; or being found to be an incompetent water well driller.

(b) The Board shall, before suspending or revoking any license ~~[certificate of registration]~~, placing a person on probation, or reprimanding a licensee, notify the holder in writing of any charges ~~[changes]~~ made in order to afford such holder an opportunity to be heard, which notification shall be given at least ten (10) days prior to the date set for hearing, and which shall prescribe the time and place of the hearing. Such written notice may be served by mailing same by registered mail to the last known business address of such person. At



such hearing such person and all persons complaining against him, as well as any other witness whose testimony is relied upon to substantiate the charges made, shall be entitled to be present. He shall also be entitled to present evidence, oral and written as may be relevant to the inquiry. In such hearing all witnesses shall be duly sworn and a record of the proceedings shall be taken. Any party to the proceedings desiring it shall be furnished with a copy of the record upon the payment to the Board of a fee not to exceed fifty cents (50¢) per page.

(c) Every decision and order in a disciplinary ~~[revocation or suspension]~~ hearing rendered by the Board shall be in writing and shall set forth briefly the findings of fact and Board's conclusions. Parties to the proceedings shall be notified of the decision or order in person or by mail and forwarded a copy of same; such orders or decisions shall be transmitted no later than thirty (30) days of conclusion of the hearing.

Sec. 9. APPEAL OF BOARD ACTION. (a) A person affected by any ruling, order, decision, or other act of the Board may appeal by filing a petition in a District Court in the county in which the alleged violation occurred.

(b) Petition must be filed within thirty (30) days after the date of the Board's action, or, in case of a ruling, order, or decision, within thirty (30) days after its effective date.

(c) Service of citation on the Board must be accomplished within thirty (30) days after the date the petition was filed. Citation may be served on the Executive Director of the department ~~[Water Development Board]~~ or on any member of the Water Well Drillers Board.

(d) The plaintiff shall pursue his action with reasonable diligence.

(e) The substantial evidence rule applies in the judicial review of any Board action, ruling, order, or decision ~~[Any ruling of the Board may be appealed in the same manner as appeals from the justice court to the county court]~~. All administrative or executive action taken prior to the filing of the suit shall continue in force and effect until the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy.

Sec. 10. DUTIES OF THE DEPARTMENT ~~[COMMISSION]~~. (a) The department ~~[Commission]~~ shall furnish the Board with necessary clerical ~~[administrative]~~ services, including space for holding examinations; ~~[protecting examinations;]~~ printing examinations; printing and mailing licenses; sending notices ~~[before August 1 of each year that license must be renewed]~~; collecting fees and issuing receipts; ~~[keeping a current register of licensees;]~~ employing secretarial assistance; replying to routine requests for information; printing forms and information; typing all letters to be reproduced; maintaining records and completed examinations; and keeping records of receipts and disbursements; providing necessary legal services; and providing necessary investigative services, and the department ~~[Commission]~~ shall promulgate procedures and standards for plugging water wells ~~[under Section 15 of this Act]~~.

(b) The Board shall have access to information kept by the department ~~[Commission]~~ under this Act.

(c) The department ~~[Commission]~~ shall adopt the necessary procedural rules in order to carry out the imposed duties under this Section of this Act.

(d) The department shall prepare information of consumer interest describing the regulatory functions of the Board and the Board's procedures by which consumer complaints are filed with and resolved by the Board. The department shall make the information available to the general public and appropriate state agencies. [Full authority is given the Commission to enforce by injunction or other appropriate remedy, in courts of competent jurisdiction, any and all rules, regulations, decisions, determinations and orders promulgated by it which do not conflict with any law.]

(e) If a written complaint is filed with the Board relating to a licensee, the department, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notice would jeopardize an undercover investigation. The department shall maintain an information file about each complaint filed with the Board relating to a licensee.

~~Sec. 11. EXCEPTION OF DROUGHT DISASTER AREAS. Upon petition of the commissioners court of any county the Governor may proclaim the county a drought disaster area. If the Governor issues the proclamation that the county is a drought disaster area, the terms and provisions of this Act are suspended in such a county for the length of time specified in the proclamation; except insofar as said Act applies to the plugging of water wells.~~

Sec. 11 [12]. DISPOSITION OF REVENUES. (a) The state auditor shall audit the financial transactions of the Board and department in connection with the administration of this Act during each fiscal biennium.

(b) All money collected by the department [Commission] under the provisions of this Act shall be deposited in the state treasury to the credit of a special fund to be known as the water well drillers fund and may be used only to administer this Act [placed in the General Revenue Fund].

(c) On or before January 1 of each year, the department shall submit in writing to the governor and the presiding officer of each house of the legislature a complete and detailed report accounting for funds received and disbursed under this Act by the department and the Board during the preceding year.

Sec. 12 [13]. CIVIL PENALTY. Any person who fails to comply with the provisions of this Act, or with any rule or regulation promulgated by the board or the department [commission] under this Act, [or with any term, condition or provision in his permit issued pursuant to this Act,] shall be subject to a civil penalty in any sum not exceeding One Thousand Dollars (\$1,000) for each day of noncompliance and for each act of noncompliance, as the court may deem proper. A firm, partnership, association, corporation, or other group or combination with which the person was connected in relation to the act of noncompliance is also subject to the civil penalty. The action may be brought by the board [or the commission, as appropriate,] in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. Full authority is also given the executive director [board or commission, as appropriate,] to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending activity is occurring, [any and all reasonable rules and regulations promulgated by it which do not conflict with any law, and all of the terms, conditions and provisions of permits issued by the board or commission pursuant to] the provisions of this Act. At the request of the board or the executive director [commission], the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in this section. Any party to a suit may appeal from a final judgment as in other civil cases. The obtaining of a license [permit] under the provisions of this Act by a person shall not act to relieve that person from liability under any statutory law or the Common Law.

Sec. 13 [14]. MARKING RIGS WITH IDENTIFICATION NUMBER. It is the duty of all licensed [registered] water well drillers to see that all rigs used by them or their employees in the water well drilling business are marked with legible identification numbers at all times; the "identification number" to be used on the rigs shall be the "license number" which appears on the driller's license [registration certificate]; the Board shall set out in detail in its rules the

specific method and manner for marking the rigs. ~~[The driller shall furnish a sworn statement that he has complied with this provision of the Act with his annual renewal fee each year.]~~ Any licensed driller has 30 ~~[one hundred eighty (180)]~~ days to comply with the regulations provided in this section ~~[Section 14]~~.

Sec. 14 ~~[15]~~. PLUGGING OF WATER WELLS. (a) It shall be the duty of each driller licensed ~~[registered]~~ under this Act to inform forthwith the landowner or person having a well drilled when water ~~[is]~~ injurious to vegetation, to land or to fresh water has been encountered and such well must be plugged or probably completed in order to avoid injury or pollution.

(b) It shall be the duty of the driller ~~[landowner or person having a well drilled, upon being so informed,]~~ to see that such a well is forthwith plugged or completed under standards and procedures promulgated ~~[set]~~ by the department ~~[Texas Water Commission]~~.

(c) It shall be the duty of whoever shall plug such a well to complete a plugging report within thirty (30) days and submit it to the executive director ~~[Commission]~~; appropriate forms shall be furnished by the executive director ~~[Commission]~~ upon request.

Sec. 15 ~~[17]~~. CONSTRUCTION. Nothing in this Act shall be construed as affecting the ownership, or the rights of owners of the land, in underground water.

Sec. 16 ~~[18]~~. SEVERABILITY CLAUSE. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without defeating the purpose or objective of the provision, and to this end, the provisions of this Act are declared to be severable.

Sec. 17 ~~[20]~~. TRANSFER OF FUNCTIONS. In the event that the functions of the Texas Department of Water Resources ~~[Water Commission]~~ necessary to the proper implementation of its duties under this Act are transferred to ~~[the Texas Water Development Board or]~~ any other agency, the authority given herein to the Texas Department of Water Resources ~~[Water Commission]~~ shall be transferred to ~~[the Texas Water Development Board or]~~ such other agency.

SECTION 2. Each valid certificate of registration issued by the board on or before September 1, 1981, continues in effect until its regular expiration date.

SECTION 3. (a) Except for the ex officio members, incumbent members of the board on the effective date of this Act serve the remainder of their terms.

(b) The governor shall appoint one public member for a term expiring on September 15, 1983, one public member for a term expiring on September 15, 1985, and one public member for a term expiring on September 15, 1987.

SECTION 4. This Act takes effect September 1, 1981.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Traeger moved to concur in the House amendment.

The motion prevailed.

## SENATE BILL 359 WITH HOUSE AMENDMENTS

Senator Brooks called S.B. 359 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 359:

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation of the Texas State Board of Examiners of Psychologists and the regulation of psychologists.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 4, 4a, 5, 6, 8, 11, 12, 14, 15, 16, 17, 20, 21, 22, and 23, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 4. STATE BOARD OF EXAMINERS; MEMBERS; APPOINTMENT AND TERMS; OATH. (a) The Texas State Board of Examiners of Psychologists shall consist of nine ~~six~~ qualified persons appointed by the governor with the advice and consent of the senate, for regular terms of six years. ~~[The terms of members who are in office on October 31, 1971, shall terminate on that date, and the terms of their successors shall commence on November 1, 1971. However, each member shall continue to hold office until his successor is appointed and has qualified. On or before November 1, 1971, the governor shall appoint two members for two years, two members for four years, and two members for six years. Thereafter, at the expiration of the term of each member, the governor shall appoint a successor for a term of six years. In making an appointment the governor shall specify which member each new appointee succeeds.]~~

(b) Before entering upon the duties of his office, each member of the Board shall take the constitutional oath of office and file it with the secretary of state.

(c) Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

Sec. 4a. APPLICATION OF SUNSET ACT. The Texas State Board of Examiners of Psychologists is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the Board ~~[board]~~ is abolished, and this Act expires effective September 1, 1993 ~~[1981]~~.

Sec. 5. QUALIFICATIONS OF BOARD MEMBERS; TERMS; VACANCIES. (a) Each member of the Board shall be a citizen of the United States ~~and~~ a resident of this state.

(b) Six members must be persons ~~[and]~~ certified as psychologists ~~[a psychologist]~~ under this Act, who ~~have~~ has engaged in independent practice, teaching, or research in psychology for a period of at least five years. To assure adequate representation of the diverse fields of psychology, the governor shall so make his appointments that ~~[the Board has]~~ at least two of these members ~~[who]~~ are engaged in rendering services in psychology, at least one of these members ~~[member who]~~ is engaged in research in psychology, and at least one of these members ~~[member who]~~ is a member of the faculty of a training institution in psychology.

(c) One member must be certified as a psychological associate under this Act for at least five years.

(d) Two members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment; or

(3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment.

(e) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a), (b), (c), or (d) of this section for appointment to the Board;

(2) does not maintain during the service on the Board the qualifications required by Subsection (a), (b), (c), or (d) of this section for appointment to the Board;

(3) violates a prohibition established by Subsection (g) or (h) of this section; or

(4) does not attend at least one-half of the regularly scheduled meetings held by the Board in a calendar year, excluding meetings held while the person was not a member of the Board.

(f) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

(g) A member or employee of the Board may not be an officer, employee, or paid consultant of a trade association in the psychology field. A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(h) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(i) A member of the Board who is appointed for a term of less than six years may be appointed to succeed himself for one six-year term. A member of the Board who is appointed for a six-year term is ineligible for reappointment for a period of six years following expiration of the term. Any vacancy in the membership of the Board occurring otherwise than by expiration of term shall be filled for the unexpired term by appointment by the governor.

Sec. 6. COMPENSATION AND EXPENSES OF BOARD MEMBERS. Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act. [Each member of the Board shall receive the sum of Twenty Dollars (\$20.00) per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all necessary expenses incurred in the performance of his duties under this Act.] All per diem and compensation [reimbursement] for expense authorized by this section shall be paid from the "Psychologists Licensing Fund." No money shall

ever be paid from the General Revenue Fund for the administration of this Act.

Sec. 8. POWERS AND DUTIES OF THE BOARD. (a) In addition to the powers and duties granted the Board by other provisions of this Act, the Board may make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it. The Board shall adopt and publish a Code of Ethics.

(b) The Board may certify specialties within the field of psychological services and may employ consultants when necessary for the implementation of this Act. The Board shall adopt rules applicable to the certification of specialties and to the employment of consultants. Specialty certifications by the Board may include certifications for clinical psychologists, counseling psychologists, industrial psychologists, [and] school psychologists, and psychologists designated as health service providers.

(c) The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board's procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make information available to the general public and appropriate state agencies.

(d) Each written contract for services in this state of a licensed or certified psychologist must contain the name, mailing address, and telephone number of the Board.

(e) There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against licensees can be directed to the Board.

(f) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

(g) If a written complaint is filed with the Board relating to a licensee, the Board at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

(h) The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

(1) restricts the person's use of any medium for advertising;

(2) restricts the person's personal appearance or use of his personal voice in an advertisement;

(3) relates to the size or duration of an advertisement by the person; or

(4) restricts the person's advertisement under a trade name.

(i) The Board may recognize, prepare, or administer continuing education programs for persons regulated by the Board under this Act. Participation in the programs is voluntary.

(j) The Board shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job-opening with the Board in a nonentry level position. The intra-agency posting shall be made at least 10 days before any public posting is made.

(k) The Board shall develop a system of annual performance evaluations of the Board's employees based on measurable job tasks. Any merit pay authorized by the Board shall be based on the system established under this subsection.

(l) The board is subject to the open meetings law, Chapter 271, Acts of the Sixtieth Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes) and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 11. QUALIFICATION OF APPLICANT FOR EXAMINATION FOR CERTIFICATION. An applicant is qualified to take the examination for certification as a psychologist:

(a) if he has received the doctoral degree based upon a program of studies whose content was primarily psychological or its substantial equivalent in both subject matter and extent of training from a regionally [an] accredited educational institution [or its substantial equivalent in both subject matter and extent of training],

(b) if he has attained the age of majority [is at least twenty-one years of age],

(c) [if he is a resident of this state;

(d)] if he is of good moral character,

(e) if he is a citizen of the United States or has legally declared his intention of becoming a citizen;]

(d) [(f)] if, in the judgment of the Board, he is physically and mentally competent to render psychological services with reasonable skill and safety to his patients and is afflicted with no disease or condition, either mental or physical, which would impair his competency to render psychological services, and

(e) [(g)] if he has not been convicted of a felony or a crime involving moral turpitude, has not used drugs or intoxicating liquors to an extent that would affect his professional competency [is not intemperate in the use of or addicted to any drug], has not been guilty of fraud or deceit in making his application, or [and] has not aided or abetted a person, not a licensed psychologist, in representing himself as a psychologist in this state.

Sec. 12. APPLICATIONS. Application under Section 14 of this Act for examination for certifications as a psychologist or for certification without examination as a psychologist shall be upon the forms prescribed by the Board. The Board may require that the application be verified. The required certification fee and examination fee shall accompany the application.

Sec. 14. EXAMINATIONS. (a) The Board shall administer examinations to qualified applicants for certification at least once a year. The Board shall determine the subject and scope of the examinations and establish appropriate fees for examinations administered. Part of the examinations shall test applicant knowledge of the discipline and profession of psychology and part shall test applicant knowledge of the laws and rules governing the profession of psychology in this state. This latter part of the examination is to be known as the Board's jurisprudence examination. [Written examinations may be supplemented by such oral examinations as the Board shall determine.] An applicant who fails his examination may be reexamined at intervals specified by the Board [a subsequent examination] upon payment of another examination [certification] fee corresponding to the examination failed.

(b) Within 30 days after the day on which a certification examination is administered under this Act, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two weeks after the day that the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the Board shall notify the examinee of the reason for the delay before the 90th day.

(c) The Board may waive the discipline and professional segment of the examination requirement for Diplomats of the American Board of Examiners in Professional Psychology and/or when in the Board's judgment the applicant has already demonstrated competence in areas covered by the examination. However, the jurisprudence examination shall be administered to and passed by all applicants before certification.

(d) If requested in writing by a person who fails an examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

Sec. 15. CERTIFICATION. (a) A qualified applicant for certification who has successfully passed the examinations [examination] prescribed by the Board and has paid the certification fee shall be certified by the Board as a psychologist.

(b) The Board may waive any licensure or certification requirement for an applicant with a valid license or certificate from another state having licensing or certification requirements substantially equivalent to those of this state. However, all applicants must take and pass the Board's jurisprudence examination before licensing or certification. [Until December 31, 1970 a person who is at least twenty one years of age, a resident of this state, of good moral character, and is a citizen of the United States or has legally declared his intention of becoming a citizen may, upon application and payment of the certification fee, be certified without examination by the Board as a psychologist if

(1) he has a doctor's degree from an accredited institution based upon a program which is primarily psychological or the substantial equivalent thereof in both subject and extent of training, and, in addition, has had three years of professional experience satisfactory to the Board, or

(2) has a master's degree from an accredited institution based upon a program which is primarily psychological and, in addition, has had eight years of professional psychological experience.

(c) The Board may, upon application therefor and payment of the certification fee, certify as a psychologist any person who is licensed or certified as a psychologist by any other state, territory or possession of the United States if the requirements of that state, territory or possession for such license or certificate are the substantial equivalent of the requirements of this Act.]

Sec. 16. FEES. The [certification] fees, [the licensing fee, the specialty certification fee, and the renewal fees] shall be [an amount] fixed by the Board, in amounts not to exceed:

1. Certification application:	
a. Doctoral level	\$105
b. Masters level	90
2. Examination	120
3. Jurisprudence examination	20
4. Licensure application:	75
5. Certification renewal:	
a. Doctoral level	25
b. Masters level	25
6. License renewal	70
7. Health Service Provider application	55
8. Health Service Provider renewal	10
9. Inactive status	10

[The Board shall fix the amount of the fees so that the total fees collected will be sufficient to meet the expenses of administering this Act and so that unnecessary surpluses in the Psychologist Licensing Fund are avoided.] The



board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

Sec. 17. ~~[CERTIFICATION EXPIRATION]~~ RENEWAL. (a) The Board shall issue a certificate to each person whom it certifies and a license to those persons licensed ~~[registers as a psychologist]~~. The certificate or license shall show the full name of the psychologist and his address and shall bear a serial number. The certificate or license shall be signed by the Chairman and the Secretary of the Board under the seal of the Board.

(b) Certificates and licenses will be renewed no less than once every two years. Certificates and licenses expire on December 31st in the appropriate year following their issuance or renewal and are invalid thereafter unless renewed.

(c) The Board shall notify every person certified or licensed under this Act of the date of expiration of his certificate or license and the amount of the renewal fee. A person may renew an unexpired certificate or license by paying to the Board before the expiration date of the certificate or license the required renewal fee. If a person's certificate or license has been expired for not longer than 90 days, the person may renew the certificate or license by paying to the Board the required renewal fee and a fee that is one-half of the examination fee for the certificate or license. If a person's certificate or license has been expired for longer than 90 days but less than two years, the person may renew the certificate or license by paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the certificate or license. If a person's certificate or license has been expired for two years or longer, the person may not renew the certificate or license. The person may obtain a new certificate or license by submitting to reexamination and complying with the requirements and procedures for obtaining an original certificate or license. ~~[This notice shall be mailed at least one month before the expiration of the certificate. Renewal may be made at any time during the months of November or December upon application therefor by payment of the renewal fee. Failure on the part of any person certified to pay his renewal fee before January 1 does not deprive him of his right to renew his certificate, but the fee to be paid for renewal after December shall be increased ten per cent for each month or fraction thereof that the payment of the renewal fee is delayed. However, the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.]~~

(d) A psychologist who wishes to place his certificate or license upon an inactive status may do so upon application by payment of a fee established by the Board ~~[of Three Dollars (\$3.00)]~~; such a psychologist shall not accrue any penalty for late payment of the renewal fee.

(e) ~~[(d)]~~ The Board may refuse to renew the certification of any person who is not qualified to take the examination for certification under Section 11 of this Act.

(f) Any person holding a license issued under Section 21 of this Act shall be required to renew his license and not his certificate.

(g) The renewal procedures prescribed by this section apply to the renewal of doctoral level certificates, licenses, or specialty certifications.

(h) The renewal of certificates held by psychological associates as established by Section 19 of this Act is subject to the renewal procedures prescribed by this section except that the certificates expire May 31.

Sec. 20. REPRESENTATION AS A PSYCHOLOGIST, PSYCHOLOGICAL ASSOCIATE, OR PSYCHOLOGIST'S ASSISTANT PROHIBITED. After December 31, 1970, no person shall represent himself as a psychologist or psychological associate within the meaning of this Act unless he is certified and registered under the provisions of this Act.

Sec. 21. LICENSING. Any person who offers psychological services as defined herein for compensation, must apply to the Board and upon payment of a fee shall be granted a license by the Board. No person may be licensed unless:

- (1) he is certified as a psychologist under the authority of this Act; and
- (2) he has had at least two years' experience in the field of psychological services, at least one year of which was after the person's doctoral degree was conferred, and one of which was under the supervision of a licensed psychologist ~~[at the post doctoral level of the education process, and one year of which was under the supervision of a psychologist licensed under the provisions of this Act].~~

Sec. 22. EXEMPTIONS. Nothing in this Act shall be construed to apply to:

(a) the activities, services and use of official title on the part of a person employed as a psychologist by any: (1) governmental agency, (2) public school district, (3) regionally accredited institution of higher education ~~[approved by the Board]~~ or any hospital licensed by the Texas State Department of Health, including medical clinics associated with such hospitals and are organized as an unincorporated association, provided such employee is performing those duties for which he is employed by such agency, district, institution, or clinic and within the confines of such agency, district, institution, or clinic insofar as such activities and services are a part of the duties of his office or position as a psychologist with such agency, district, or institution, or clinic; except that persons employed as psychologists who offer or provide psychological services to the public (other than lecture services) for a fee, monetary or otherwise, over and above the salary that they receive for the performance of their regular duties, and/or persons employed as psychologists by organizations that sell psychological services to the public (other than lecture services) for a fee, monetary or otherwise must be licensed under the provisions of this Act;

(b) the activities and services of a student, intern or resident in psychology, pursuing a course of study in preparation for the profession of psychology under qualified supervision in recognized training institutions or facilities, if these activities and services constitute a part of his supervised course of study, provided that such an individual is designated by a title such as "psychological intern," "psychological trainee," or others clearly indicating such training status;

(c) ~~[the activities and services of a person who is not a resident of this state and who has no established offices in this state in rendering consulting or other psychological service when these activities and services are rendered for a period which does not exceed in the aggregate more than thirty days during any year if the person is authorized under the laws of the state or country of his residence to perform these activities and services;~~

~~[(d) a sociologist who holds a doctoral degree in sociology or social psychology awarded by a recognized institution of higher learning and who elects to represent himself to the public by the title "social psychologist," provided that he has notified the Board of his intention to represent himself as such;~~

~~[(e) registered nurses licensed by the laws of this state and practicing in accordance with the standards of professional conduct and ethics promulgated by rules and regulations of the Board of Nurse Examiners;~~

~~[(f) the activities and services of [qualified] members of other professional groups licensed, certified, or registered by this state [such as physicians, attorneys, school counselors, marriage or family counselors, social workers], Christian Scientist practitioners who are duly recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or duly~~

ordained religions ~~[from]~~ doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions, provided that they do not represent themselves by any title or in any manner prohibited by this Act;

~~[(g) the services of a licensed optometrist in the evaluation and remediation of learning or behavioral disabilities associated with or caused by a defective or abnormal condition of vision].~~

Sec. 23. REVOCATION, CANCELLATION, OR SUSPENSION OF LICENSE OR CERTIFICATION. (a) The Texas State Board of Examiners of Psychologists shall have the right to cancel, revoke, suspend, or refuse to renew the license or certification of any psychologist or the certificate of any psychological associate or reprimand any psychologist upon proof that the psychologist:

(1) ~~[(a)]~~ has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; or

(2) used drugs or intoxicating liquors to an extent that affects his professional competency ~~[(b) is or has had the habit of intemperance or drug addiction such as the use of morphine, opium, cocaine, or other drugs having similar effect]; or~~

(3) ~~[(c)]~~ has been guilty of fraud or deceit in connection with his services rendered as a psychologist; or

(4) ~~[(d)]~~ has aided or abetted a person, not a licensed psychologist, in representing himself as a psychologist within this state; or

(5) ~~[(e)]~~ has been guilty of unprofessional conduct as defined by the rules established by the Board; or

(6) ~~[(f)]~~ for any cause for which the Board shall be authorized to take that action by another section of this Act ~~[refuse to admit persons to its examination].~~

The Board shall have the right to order corrective advertising when a psychologist, individually or under his assumed name, engages in false, misleading, or deceptive advertising.

(b) If the Board proposes to refuse a person's application for a license or certification, to suspend or revoke a person's license or certificate, or to reprimand a person, the person is entitled to a hearing before the Board.

(c) Proceedings for the refusal, suspension, or revocation of a license or certificate or for the reprimand of a person are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) An appeal of an action of the Board is governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Judicial review of an action of the Board shall be conducted under the substantial evidence rule.

(e) The [Proceedings under this section shall be begun by filing charges with the Texas State Board of Examiners of Psychologists in writing and under oath. Said charges may be made by any person or persons. The Chairman of the Board shall set a time and place for hearing, and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to live, and shall mail a copy of the charges and of such notice to the

~~respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged.~~

~~[Any person whose license or certification has been cancelled, revoked or suspended by the Board, or whose license or certification the Board has refused to renew for any reason, including the person's refusal to submit to a physical or mental examination requested by the Board, may, within twenty (20) days after the making and entering of such order, take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notice to the Board. The proceeding on appeal shall be under the substantial evidence rule, and which appeal shall be taken in any District Court of the county in which the person whose certificate of registration or license is involved resides. Upon application, the Board may recertify the applicant or reissue a license to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation and shall be made in such manner and form as the Board may require.]~~

~~[Provided, however, that the] Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the psychologists' license or certification be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the psychologists' license or certification, the said hearing to rescind the probation shall be called by the Chairman of the Texas State Board of Examiners of Psychologists who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or his counsel at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service as heretofore set out in this Act shall apply. At said hearing the respondent shall have the right to appear either personally or by counsel or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal.~~

~~(f) On application, the Board may recertify the applicant or reissue a license to a person whose license has been cancelled, revoked, or suspended. However, in the case of cancellation or revocation, the application may not be made before one year after the cancellation or revocation and must be made in the manner and form as the Board may require.~~

SECTION 2. (a) A person holding office as a member of the Texas State Board of Examiners of Psychologists on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(b) The governor shall appoint as additional members of the board a psychological associate and two members of the public. The governor shall designate the psychological associate for a term expiring October 31, 1981, one public member for a term expiring October 31, 1983, and one public member for a term expiring October 31, 1985.

SECTION 3. A rule adopted by the Texas State Board of Examiners of Psychologists before September 1, 1981, that conflicts with the Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule.

SECTION 4. (a) This Act takes effect September 1, 1981.

(b) The requirements of Sections 8(j) and (k), Psychologists' Certification and Licensing Act (Article 4212c, Vernon's Texas Civil Statutes), as added by this Act, that the Texas State Board of Examiners of Psychologists develop a career ladder program and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 8(k) that merit pay is to be based on the system of annual performance evaluations, shall be implemented before September 1, 1983.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - G. Thompson

Amend C.S.S.B. 359 on page 14, line 11, by striking the period and inserting: "in the appropriate year following their issuance or renewal."

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

#### SENATE BILL 372 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 372 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Floor Amendment No. 1 - Jones

Amend S.B. 372 by inserting the following after "is" on page 2, line 4: "combustible hydrocarbon natural or synthetic natural gas, crude petroleum oil, or".

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed.

## SENATE BILL 531 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 531 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - G. Hill

Amend S.B. 531 as follows:

On page 1, line 15, strike "or".

On page 1, lines 16-18 strike the following:

~~"[or has been used for applying for an absentee ballot in another election (stating the nature and date of the election) and has not been returned to him]."~~

and substitute the following:

"or has been used for applying for an absentee ballot in another election (stating the nature and date of the election) and has not been returned to him."

On page 1, lines 22-26, strike the following:

~~"[If the ground of application is sickness or physical disability by reason of which the voter cannot appear at the polling place on election day, a certificate of a duly licensed physician or chiropractor or accredited Christian Science practitioner certifying to such sickness or physical disability]"~~

and substitute the following:

"If the ground of application is sickness or physical disability by reason of which the voter cannot appear at the polling place on election day, a certificate of the applicant [a duly licensed physician or chiropractor or accredited Christian Science practitioner] certifying to such sickness or physical disability"

On page 2, lines 1-11, strike the following:

~~"shall accompany the application, which certificate shall be in substantially the following form:~~

~~"[This is to certify that I have personal knowledge of the physical condition of \_\_\_\_\_, and that because of sickness or physical disability he (she) will be unable to appear at the polling place for an election to be held on the day of \_\_\_\_\_, 19\_\_\_\_.~~

~~"[Witness my hand at \_\_\_\_\_, Texas, this day of \_\_\_\_\_, 19\_\_\_\_.~~

~~\_\_\_\_\_  
[Signature of Practitioner]"~~

and substitute the following:

"shall accompany the application, which certificate shall be in substantially the following form:

This is to certify that [I have personal knowledge of the physical condition of \_\_\_\_\_, and that] because of sickness or physical disability I [he-(she)] will be unable to appear at the polling place for a election to be held on the day of \_\_\_\_\_, 19\_\_\_\_.

Witness my hand at \_\_\_\_\_, Texas, this day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Signature of Applicant [Practitioner])

The officially prescribed certificate form shall include a statement to the following effect: "I understand that giving false information in this certificate is a crime.""

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed.

#### SENATE BILL 753 WITH HOUSE AMENDMENT

Senator Glasgow called S.B. 753 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 753:

#### A BILL TO BE ENTITLED AN ACT

relating to regulation of chiropractors and continuation of The Texas Board of Chiropractic Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 2, 3, 4, 8, 8a, 8b, 9, 10, 11, 14, 14a, and 14b, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 4512b, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 2. (a) The Texas Board of Chiropractic Examiners hereinafter provided for shall defray all expenses under this Act from fees provided in this Act, and no appropriation shall ever be made from the State Treasury for any expenditures made necessary by this Act; and all fees remaining in the "Chiropractic Examiners Fund" at the end of any fiscal year in excess of Twenty Thousand Dollars (\$20,000) shall be transferred into the General Fund of the State of Texas.

(b) The state auditor shall audit the financial transactions of the board in each fiscal biennium.

Sec. 3. (a) A Board to be known as "The Texas Board of Chiropractic Examiners" is hereby created. No member of said Board shall be a member of the faculty or Board of Trustees of any chiropractic school; and all appointments to said Board shall be subject to the confirmation of the Senate. The Texas Board of Chiropractic Examiners, which hereinafter may be referred to as "The Board," shall be composed of nine (9) members, appointed by the Governor, whose duty it shall be to carry out the purposes and enforce the provisions of this Act. Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(b) Six members must be reputable practicing chiropractors who have resided in this State for a period of five (5) years preceding their appointment. Three (3) members must be members of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment; or

(3) owns, controls, or has, directly or indirectly, more than a ten per cent (10%) interest in a business entity or other organization that provides health-care services or that sells, manufactures, or distributes health-care supplies or equipment], and the Governor of Texas shall, upon the taking effect of this Act, appoint nine (9) graduate chiropractors to constitute such a Board, who shall have been residents of this State, actually engaged in the practice of chiropractic as defined in this Act, for at least five (5) years immediately preceding the passage of this Act. The Board thus appointed, or a quorum thereof, shall by virtue of such appointment issue licenses to themselves].

(c) Five (5) members of the Board shall constitute a quorum. No school shall ever have a majority representation on the Board. No member of said Board shall be a stockholder, or have any financial interest whatsoever in any chiropractic school or college.

(d) A member or employee of the Board may not be an officer, employee, or paid consultant of a statewide or national trade association in the health-care industry.

(e) A member or employee of the Board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a statewide or national trade association in the regulated industry.

(f) A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(g) [(b)] The members of the Texas Board of Chiropractic Examiners shall be divided into three (3) classes, one, two and three, and their respective terms of office shall be determined by the Governor at the time of the first appointments hereunder. Members [Three (3) members shall hold their offices for two (2) years, three (3) members four (4) years, and three (3) members six (6) years, respectively, from the time of their appointment and until their successors are duly appointed and qualified, and the members of one (1) of the above classes of said Board shall thereafter be appointed every two (2) years by the Governor to supply vacancies made by provisions of this Act who shall] hold office for six (6) years and until their successors are duly appointed and qualified. In case of death or resignation of a member of the Board, the Governor shall appoint another to take his place for the unexpired term only. [After the first Board has been appointed, only licensed chiropractors under the laws of the State of Texas, actively engaged in the practice of chiropractic, shall be eligible for appointment on said Board.]

(h) [(e)] The Texas Board of Chiropractic Examiners is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993 [1981].

Sec. 4. (a) Each member of the Texas Board of Chiropractic Examiners shall qualify by taking the Constitutional Oath. At the first meeting of said Board after each biennial appointment, the Board shall elect a president, a vice-president and a secretary-treasurer from its members. Regular meetings shall be held to examine applicants and for the transaction of business at least twice a year at such time and place as may be determined by the Board. [Due notice of such meetings shall be given by publication in such paper or journal as may be selected by the Board.] Special meetings may be held on a call of three (3)



members of the Board. The Board may prescribe rules, regulations and bylaws in harmony with the provisions of this Act for its own proceedings and government for the examination of applicants for license to practice chiropractic. The secretary-treasurer shall make and file a surety bond in favor of the Texas Board of Chiropractic Examiners in the sum of not less than Five Thousand Dollars (\$5,000) conditioned that he will faithfully discharge the duties of his office.

(b) The board/commission is subject to the open meetings law, Chapter 271, Acts of the Sixtieth Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes) and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) If the appropriate standing committees of both houses of the legislature acting under Subsection (g), Section 5, Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), transmit to the board/commission statements opposing adoption of a rule under that section, the rule may not take effect, or if the rule has already taken effect, the rule is repealed effective on the date the board/commission receives the committee's statements.

(d) The Board shall adopt guidelines for educational preparation and acceptable practices for all aspects of the practice of chiropractic.

(e) On or before January 1 of each year, the Board shall file with the Governor and the presiding officer of each house of the Legislature a complete and detailed written report accounting for all funds received and disbursed by the Board in the preceding year.

(f) The Board shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job-opening with the Board in a nonentry level position. The intra-agency posting shall be made at least ten (10) days before any public posting is made.

(g) The Board shall develop a system of annual performance evaluations of the Board's employees based on measurable job tasks. Any merit pay authorized by the Board shall be based on the system established under this subsection.

Sec. 8. ~~[ANNUAL REGISTRATION RENEWAL.]~~ It shall be unlawful for any person who shall be licensed for the practice of chiropractic by the Texas Board of Chiropractic Examiners as created by this Act, unless such person be registered as ~~[such practitioner with the Texas Board of Chiropractic Examiners on or before the first day of January A.D. 1950, or thereafter registered in like manner annually as]~~ provided by this Act on or before the first day of January each year to practice chiropractic in this State. Each person so licensed and registered shall be deemed to have complied with the requirements and prerequisites of the laws governing the practice of chiropractic in this State. Each person so registered with the Texas Board of Chiropractic Examiners shall pay in connection with each annual registration and for the receipt hereafter provided for, a fee fixed by the Texas Board of Chiropractic Examiners ~~[not to exceed Fifty Dollars (\$50)]~~, which fee shall accompany the application of every such person for registration. Such payment shall be made to the Texas Board of Chiropractic Examiners. Every person so registered shall file with said Board a written application for annual registration, setting forth his full name, his age, post office address, his place of residence, ~~[the county or counties in which his certificate entitling him to practice chiropractic has been registered,]~~ and the place or places where he is engaged in the practice of chiropractic, as well as the college of chiropractic from which he graduated, and the number and date of his license certificate. Upon receipt of such application, accompanied by the

registration fee, the Texas Board of Chiropractic Examiners, after ascertaining either from the records of the Board or from other sources deemed by it to be reliable, that the applicant is a licensed practitioner of chiropractic in this State, shall issue to the applicant an annual registration receipt certifying that the applicant has filed such application and has paid the registration fee mentioned for the year in question; provided, that the filing of such application, the payment of the registration fee and the issuance of such receipt shall not entitle the holder thereof to lawfully practice chiropractic within the State of Texas unless he has in fact been previously licensed as such chiropractor by the Texas Board of Chiropractic Examiners, as prescribed by law, ~~[and has recorded his license certificate entitling him to practice, as issued by said Board, in the district clerk's office of the several counties in which the same may be required by law to be recorded,]~~ and unless his license to practice chiropractic is in full force and effect; and provided further that, in any prosecution for the unlawful practice of chiropractic as denounced in Section 6 hereof, such receipt showing payment of the annual registration fee required by this Section shall not be treated as evidence that the holder thereof is lawfully entitled to practice chiropractic.

Sec. 8a. ~~(a) [When a licensee under this Act shall have failed to pay his annual registration fee by January 1st, it shall be the duty of the Board, acting through its Secretary, to notify such licensee at his last known address by registered mail that his annual registration fee is due and unpaid. Fifteen (15) days after date of mailing such notice, it shall be the duty of the board, acting through its Secretary, to suspend his license for nonpayment of the annual registration fee and to notify such licensee of such suspension by registered mail addressed to his last known address. If the said registration fee is not then paid within thirty (30) days from date of such notice of suspension, the Board shall then cancel such license.]~~ Practicing chiropractic as defined in Section 1 of this Act without an annual registration receipt for the current year as provided herein shall have the same force and effect and be subject to all penalties of practicing chiropractic without a license. ~~[After the Board shall have declared a license cancelled as provided herein the Board may thereafter in its discretion refuse to issue a new license until such licensee has passed the regular examination for license as provided in this Act.]~~

(b) A person may renew an unexpired license by paying to the Board before the expiration date of the license the required renewal fee.

(c) If a person's license has been expired for not longer than ninety (90) days, the person may renew the license by paying to the Board the required renewal fee and a fee that is one-half of the examination fee for the license.

(d) If a person's license has been expired for longer than ninety (90) days but less than two (2) years, the person may renew the license by paying to the Board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(e) If a person's license has been expired for two (2) years or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Sec. 8b. (a) The provisions of this Act shall apply to all persons licensed by the Texas Board of Chiropractic Examiners and the annual registration fee shall apply to all persons licensed by the Texas Board of Chiropractic Examiners, whether or not they are practicing within the borders of this State. Provided, however, that as a prerequisite to the annual registration or renewal and before such chiropractic registration or renewal may be issued, the licensee shall present to the Board;

(1) ~~[(a)]~~ satisfactory evidence that in the year preceding the application for renewal said licensee attended two (2) days of continuing educational courses approved by the Board; ~~[seminar, educational lectures, post-graduate course, or annual convention of any State Association or Society, or regular organized (recognized) Chiropractic College,]~~ or

(2) ~~[(b)]~~ satisfactory evidence that he was unavoidably prevented by sickness or otherwise from attending such educational or post-graduate program, together with a recommendation of two (2) reputable licensed Texas Chiropractors who personally know the licensee and vouch for his good standing in the profession; provided that new licensees during twelve (12) months immediately preceding said January 1st, by examination, shall be granted renewal without attending said educational programs.

(b) The Board shall notify licensees of approved continuing education courses at least annually.

Sec. 9. The Texas Board of Chiropractic Examiners shall upon payment by an applicant of a fee ~~[of Fifty Dollars (\$50).]~~ grant license to practice chiropractic to licentiates of other states or territories having requirements and practices equal to those established by the laws of this State. Applications for license under the provisions of this Section shall be in writing, and upon a form to be prescribed by the Texas Board of Chiropractic Examiners. Said application shall be accompanied by a license, or a certified copy of license to practice chiropractic, lawfully issued to the applicant, upon examination, by some other state or territory of the United States. Said application shall also be accompanied by an affidavit made by the president or secretary of the Board of Chiropractic Examiners which issued the said license, or by a legally constituted chiropractic registration officer of the state or territory by which the license was granted, and on which the application for chiropractic registration in Texas is based, reciting that the accompanying license has not been cancelled or revoked, and that the statement or qualifications made in the application for chiropractic license in Texas is true and correct. Applicants for license under the provisions of this Section shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of said application, stating that the license under which the applicant practiced chiropractic in the State or territory from which the applicant removed, was at the time of such removal in full force, and not suspended or cancelled. Said application shall also state that the applicant is the identical person to whom the said certificate was issued, and that no proceeding has been instituted against the applicant for the cancellation of said certificate to practice chiropractic in the State or territory by which the same was issued; and that no prosecution is pending against the applicant in any State or Federal Court for any offense which, under the law of Texas is a felony.

Sec. 10. (a) All applicants for license to practice chiropractic in this State, not otherwise licensed under the provisions of this law, must successfully pass an examination by the Texas Board of Chiropractic Examiners established by this law. The Board is authorized to adopt and enforce rules of procedure not inconsistent with the statutory requirements. All applicants shall be eligible for examination who ~~[are citizens of the United States and]~~ present satisfactory evidence to the Board that they are more than ~~eighteen (18)~~ ~~[twenty-one (21)]~~ years of age, of good moral character, have completed sixty (60) semester hours of college courses, other than a chiropractic school, and are graduates of bona fide reputable chiropractic schools (whose entrance requirements and course of instruction are as high as those of the better class of chiropractic schools in the United States); a reputable chiropractic school shall maintain a resident course of instruction equivalent to not less than four (4) terms of eight (8) months

each, or a resident course of not less than the number of semester hours required by The University of Texas for the granting of a Bachelor of Arts degree; shall give a course of instruction in the fundamental subjects named in Section 12 of this Act; and shall have the necessary teaching force and facilities for proper instruction in all of said subjects. Applications for examination must be made in writing, verified by affidavit, and filed with the secretary of the Board, on forms prescribed by the Board, accompanied by a fee ~~[of Fifty Dollars (\$50)]~~. All applicants shall be given due notice of the date and place of such examination.

(b) The Board shall grant a license without a written examination to an applicant that holds a National Board of Chiropractic Examiners certificate who meets the requirements of this chapter and who has satisfactorily passed ~~[a personal interview and]~~ a practical examination ~~[and has paid an additional fee of Fifty Dollars (\$50)]~~. The Board shall periodically determine to its satisfaction whether those applicants who hold National Board of Chiropractic Examiners certificates have been adequately examined. When the Board determines that those applicants have not been adequately examined, the Board shall require those applicants to be examined in accordance with other provisions of this Act.

(c) If any applicant, because of failure to pass the required examination, shall be refused a license, he or she, at such time as the Texas Board of Chiropractic Examiners may fix, not exceeding one (1) year, shall be permitted to take a subsequent examination, upon such subjects required in the original examination as the Board may prescribe except that the applicant shall not be required to take a re-examination on subjects in which he has made a grade of seventy-five per cent (75%) or more, provided the applicant shall apply for re-examination within one (1) year ~~[upon the payment of such part of Fifty Dollars (\$50) as the Board may determine and state]~~. In the event satisfactory grades shall be made in the subjects prescribed and taken on such re-examination, the board shall grant to the applicant a license to practice chiropractic. The Board shall determine the grade to be given the examinees on the answers turned on in on the subjects of complete and partial examination, and its decision thereupon shall be final.

~~[Provided, however, that those who are regularly engaged in the practice of chiropractic in this State on April 18, 1949, and who have completed a resident course and hold diplomas from schools recognized by the Board as being regularly organized and conducted as chiropractic schools at the time of the issuance of such diplomas, shall be licensed under this Act, provided they apply therefor within six (6) months after the effective date of this Act, and provided further that they shall meet the provisions of this Act with reference to citizenship, age, and good moral character, and~~

~~[Provided that those who have begun the study of chiropractic prior to the effective date of this Act in institutions regularly organized and conducted as chiropractic schools shall be licensed under this Act, provided they complete a standard chiropractic resident course of one hundred and twenty (120) semester hours in such school or schools and receive diplomas therefrom, and provided further that they shall meet the provisions of this Act with reference to citizenship, age, and good moral character.~~

~~[The Board may not establish examination requirements for a license in addition to the requirements provided in this section.]~~

(d) Prior to the issuance of a license to practice chiropractic, the Board shall require from a person otherwise qualified by law, evidence, verified by transcript of credits, certifying that the person has satisfactorily completed sixty (60) or more semester hours of college credits at a college or university which

issues credits acceptable by The University of Texas at Austin leading toward a bachelor of arts or a bachelor of science degree. The credits shall include the satisfactory completion of courses in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, and public health with an average of seventy-five per cent (75%) or better in each of the courses. The sequence of the courses shall be in the manner as from time to time is required by The University of Texas at Austin.

(1) The Board may charge a fee of not more than Fifty Dollars (\$50) for verification of the satisfaction of the completion of the courses described in this subsection.

(2) Any license to practice issued after September 1, 1981, contrary to this Act shall be void.

(e) Within thirty (30) days after the day on which a licensing examination is administered under this Act, the Board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the Board shall notify examinees of the results of the examination within two (2) weeks after the day that the Board receives the results from the testing service. If the notice of the examination results will be delayed for longer than ninety (90) days after the examination date, the Board shall notify the examinee of the reason for the delay before the ninetieth (90th) day.

(f) If requested in writing by a person who fails the licensing examination administered under this Act, the Board shall furnish the person with an analysis of the person's performance on the examination.

Sec. 11. (a) The funds realized from the fees collected under this Act shall constitute the "Chiropractic Examiners Fund," and shall be applied to the necessary expenses of the Texas Board of Chiropractic Examiners, including the expenses authorized by said Board in enforcing the provision of this Act [and to compensate members of the Board, said compensation to each member of the Board to be Twenty-five Dollars (\$25) per day for the days such members may be active on business of the Board, whether such business consists of regular meetings, committee work for the Board, grading of papers, traveling, or any other function which is a legitimate and proper function held to be necessary by the Texas Board of Chiropractic Examiners.]

(b) The Board shall establish reasonable and necessary fees for the administration of this Act, not to exceed:

- (1) annual renewal: \$120;
- (2) reciprocal license: \$120;
- (3) examination fee: \$120;
- (4) reexam fee: \$75; and
- (5) verification of licensing requirements fee: \$75.

(c) Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(d) [said daily compensation shall be exclusive of the necessary costs of travel of any Board member, or any other expense necessary to the performance of his duty;] Provided also that the premium of any bond required by the Board of any officer or employee of the Board shall be paid out of said fund, as well as the necessary expenses of any employee incurred in the performance of his duties.

(e) All disbursements from said fund shall be made only upon written approval of the President and Secretary-Treasurer or of the designated staff member of the Texas Board of Chiropractic Examiners upon warrants drawn by the Comptroller to be paid out of said fund.

Sec. 14. (a) The Texas Board of Chiropractic Examiners shall revoke or suspend a license, probate a license suspension, or reprimand a licensee for any violations of the Act or rules of the Board ~~have the right to cancel, revoke, or suspend the license of any practitioner of chiropractic or place licenses upon probation for such length of time as may be deemed proper by the Board upon proof of the violation of the law in any respect with regard thereto, or for any cause for which the Board shall be authorized to refuse to admit persons to its examinations~~.

(b) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

(c) If a written complaint is filed with the Board relating to a licensee, the Board at least as frequently as quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

~~[Proceedings under this Article shall be begun by filing charges with the Texas Board of Chiropractic Examiners in writing and under oath. Said charges may be made by any person or persons. The President of the Texas Board of Chiropractic Examiners shall set a time and place for hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for hearing, to be served on the respondent or his counsel at least ten (10) days prior thereto. When personal service is impossible, or cannot be effected, the Board shall cause to be published once a week for two (2) successive weeks a notice of the hearing in a newspaper published in the county wherein the respondent was last known to practice, and shall mail a copy of the charges and of such notice to the respondent at his last known address. When publication of the notice is necessary, the date of hearing shall not be less than ten (10) days after the date of the last publication of the notice. At said hearing the respondent shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence in his behalf, to cross-examine witnesses and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records and publications authorized or required by the terms of this Act shall be privileged.]~~

(d) Any person whose license to practice chiropractic has been cancelled, revoked or suspended by the Board may ~~within twenty (20) days after the making and entering of such order,~~ take an appeal to any of the district courts in the county of his residence, but the decision of the Board shall not be enjoined or stayed except on application to such district court after notices to the Board. ~~[The proceeding on appeal shall be a trial de novo, as such term is commonly used and intended in an appeal from the justice court to the county court, and which appeal shall be taken in any District Court of the county in which the person whose certificate of annual renewal or license is involved, resides.]~~

(e) Upon application, the Board may reissue a license to practice chiropractic to a person whose license has been cancelled or suspended, but such application, in the case of cancellation or revocation, shall not be made prior to one (1) year after the cancellation or revocation, and shall be made in such manner and form as the Board may require.

(f) If the Board proposes to refuse a person's application for a license, to suspend or revoke a person's license, or to probate or reprimand a person, the person is entitled to a hearing before the Board.

(g) Disciplinary proceedings are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Sec. 14a. The Texas Board of Chiropractic Examiners may refuse to admit persons to its examinations and may cancel, revoke or suspend licenses or place licensees upon probation for such length of time as may be deemed proper by the Board for any one or more of the following causes:

1. For failure to comply with, or the violation of, any of the provisions of this Act;
2. If it is found that said person or persons ~~[do not possess or no longer possess a good moral character or]~~ are in any way guilty of deception or fraud in the practice of chiropractic;
3. The presentation to the Board or use of any license, certificate or diploma, which was illegally or fraudulently obtained, or the presentation to the Board of any untrue statement or any document or testimony which was illegally practiced in passing the examination;
4. Conviction of a crime of the grade of a felony, or one which involves moral turpitude, or the procuring or assisting in the procuring of an abortion;
5. Grossly unprofessional conduct or dishonorable conduct of a character likely to deceive or defraud the public, habits of intemperance or drug addiction, or other habits calculated in the opinion of the Board to endanger the lives of patients;
6. The use of any advertising statement of a character to mislead or deceive the public;
7. Employing directly or indirectly any person whose license to practice chiropractic has been suspended, or associate in the practice of chiropractic with any person or persons whose license to practice chiropractic has been suspended, or any person who has been convicted of the unlawful practice of chiropractic in Texas or elsewhere;
8. The advertising of professional superiority, or the advertising of the performance of professional services in a superior manner;
9. The purchase, sale, barter, use, or any offer to purchase, sell, barter or use, any chiropractic degree, license, certificate, or diploma, or transcript of license, certificate, or diploma in or incident to an application to the Board of Chiropractic Examiners for license to practice chiropractic;
10. Altering with fraudulent intent any chiropractic license, certificate or diploma, or transcript of chiropractic license, certificate or diploma;
11. The impersonation of, or acting as proxy for, another in any examination required by this Act for a chiropractic license;
12. The impersonation of a licensed practitioner, or the permitting or allowing another to use his license or certificate to practice chiropractic as defined by statute by a licensed practitioner;
13. Proof of insanity of the holder of a certificate, as adjudged by the regularly constituted authorities;
14. Failure to use proper diligence in the practice of chiropractic by the holder of a certificate, or grossly inefficient practice of chiropractic;
- ~~15. Advertising specific methods of practice, or advertising as a graduate of any specific school except in opening announcements and then only in biographical layout;~~
- ~~16. Naming functional disorders of the human body in advertisements in the absence of relating same to the practice of chiropractic as authorized in Section 1 of this Act;~~
- ~~17. Advertising in any publication or news media the prices for which chiropractic services are available, and the advertising of free services shall be~~

~~deemed to be in violation of this Act, except under the auspices of chiropractic organizations recognized by the Texas Board of Chiropractic Examiners;~~

~~[18. Advertising in or through any media as a chiropractic specialist except as follows:~~

~~[A. "Specializing in spinal alignment";~~

~~[B. "Specializing in the examination and adjustment of spinal disorders";~~

~~[19. Advertising in yellow pages of telephone directories with ads in excess of two inches by one column except institutional advertising under the auspices of a chiropractic organization recognized by the Texas Board of Chiropractic Examiners;]~~

~~15. [20.] Failing to clearly differentiate a chiropractic office or clinic from any other business or enterprise; or~~

~~16. [21.] Personally soliciting patients, or causing patients to be solicited, by the use of case histories of patients of other chiropractors.~~

~~Sec. 14b. [(a) In order for a license to be reinstated, an applicant for reinstatement shall be required to complete at least a one-week period of attendance at a chiropractic school or college recognized by the Texas Board of Chiropractic Examiners, for each year or fraction thereof that the license was suspended, revoked, or cancelled for any reason.~~

~~[(b)] The Board may [further] require evidence of proper training, precaution, and safety in the use of analytical and diagnostic x-ray in conformity with the provisions of Chapter 72, Acts of the 57th Legislature, 1961 (Article 4590f, Vernon's Texas Civil Statutes), and in conformity with all rules and regulations of the Texas Radiation Control Agency and the Texas State Department of Health. Nothing herein shall be deemed to alter, modify or amend the provisions of Section 1, Chapter 94, Acts of the 51st Legislature, 1949, as amended (Article 4512b, Vernon's Texas Civil Statutes), or to enlarge in any manner the scope of the practice of chiropractic or the acts which a chiropractor is authorized to perform; and, provided further, that nothing herein shall be deemed to alter, modify or amend the provisions of Article 4510, Revised Civil Statutes of Texas, 1925, as amended.~~

~~SECTION 2. Chapter 94, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 4512b, Vernon's Texas Civil Statutes), is amended by adding Sections 3a, 3b, 5a, 17a, and 17b to read as follows:~~

~~Sec. 3a. (a) The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board's procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make the information available to the general public and appropriate state agencies.~~

~~(b) There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against licensees can be directed to the Board.~~

~~Sec. 3b. (a) It is a ground for removal from the Board if a member:~~

~~(1) does not have at the time of appointment the qualifications required by Subsection (b) of Section 3 of this Act for appointment to the Board;~~

~~(2) does not maintain during the service on the Board the qualifications required by Subsection (b) of Section 3 of this Act for appointment to the Board;~~

~~(3) violates a prohibition established by Subsection (d), (e), or (f) of Section 3 of this Act; or~~

~~(4) does not attend at least one-half of the regularly scheduled meetings held by the Board in a calendar year, excluding meetings held while the person was not a member of the Board.~~



(b) The validity of an action of the Board is not affected by the fact that it was taken when a ground for removal of a member of the Board existed.

Sec. 5a. A person may not practice chiropractic without being licensed to do so by The Texas Board of Chiropractic Examiners.

Sec. 17a. The Texas Board of Chiropractic Examiners may request from a chiropractic peer review committee established under Article 4512b(1), Revised Civil Statutes of Texas, 1925, information pertaining to actions taken by the peer review committee.

Sec. 17b. The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his personal voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

SECTION 3. A rule adopted by the Texas Board of Chiropractic Examiners before September 1, 1981, that conflicts with Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the Board shall repeal the rule.

SECTION 4. (a) A person holding office as a member of the Texas Board of Chiropractic Examiners on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

(b) The governor shall appoint three public members to fill the offices of incumbent members who are chiropractic examiners and whose terms expire in 1983, 1985, and 1987.

SECTION 5. Sections 6 and 7, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 4512b, Vernon's Texas Civil Statutes), are repealed.

SECTION 6. (a) This Act takes effect September 1, 1981.

(b) The requirements of Sections 4(d) and (e), Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), as added by this Act, that the Texas Board of Chiropractic Examiners develop a career ladder program and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 4(c) that merit pay is to be based on the system of annual performance evaluations, shall be implemented before September 1, 1983.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Glasgow moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 121 WITH HOUSE AMENDMENTS**

Senator Glasgow called **S.B. 121** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Floor Amendment No. 1 - Rudd

Amend **S.B. 121** by striking all below the enacting clause and substituting the following:

**SECTION 1.** Section 3, Article 38.22, Code of Criminal Procedure, 1965, as amended, is amended to read as follows:

(a) ~~No [A-a]~~ oral or sign language statement of an accused made as a result of custodial interrogation shall be [is] admissible against the accused in a criminal proceeding ~~unless [for the purpose of impeachment only and when]:~~

(1) an electronic recording, which may include motion picture, video tape, or other visual recording, is made of the statement;

~~[(2) prior to the statement but during the recording the accused is told that a recording is being made;]~~

(2) ~~[(3)]~~ prior to the statement but during the recording the accused is given the warning in Subsection (a) of Section 2 above and the accused knowingly, intelligently and voluntarily waives any rights set out in the warning;

(3) ~~[(4)]~~ the recording device was capable of making an accurate recording, that the operator was competent, and that the recording is accurate and has not been altered; and

~~[(5) the statement is witnessed by at least two persons; and]~~

(4) ~~[(6)]~~ all voices on the recording are identified.

(b) Every electronic recording of any statement made by an accused during a custodial interrogation must be preserved until such time as the defendant's convictions for any offense relating thereto is final, all direct appeals therefrom are exhausted, or the prosecution of such offenses is barred by law ~~[its destruction is permitted by order of a district court of this state].~~

(c) Subsection (a) of this section shall not apply to any statement which contains assertions of facts or circumstances that are found to be true and which conduce to establish the guilt of the accused, such as the finding of secreted or stolen property or the instrument with which he states the offense was committed.

(d) If the accused is a deaf person, the accused's statement under Section 2 or Section 3(a) of this article is not admissible against the accused unless the warning in Section 2 of this article is interpreted to the deaf person by an interpreter who is qualified and sworn as provided in Article 38.31 of this code.

**SECTION 2.** This Act applies to oral statements of an accused made on or after its effective date. Section 3, Article 38.22, Code of Criminal Procedure, 1965, as amended, as in existence before the effective date of this Act, is continued in force for the purpose of determining the admissibility in a criminal proceeding of an oral statement of an accused made before the effective date of this Act.

**SECTION 3.** This Act takes effect September 1, 1981.

**SECTION 4.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

## Floor Amendment No. 2 - Lyon

Amend S.B. 121 by striking lines 20 through 24, Page 1, and substituting the following in lieu thereof:

“(3) the recording device was capable of making an accurate recording, the operator was competent, and the recording is accurate, has not been altered and reflects that the accused was advised before the interrogation that the interrogation will be recorded; and

The amendments were read.

Senator Glasgow moved to concur in the House amendments.

The motion prevailed.

**SENATE BILL 683 WITH HOUSE AMENDMENT**

Senator Farabee called S.B. 683 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

## Committee Amendment No. 1 - Coleman

Amend S.B. 683 as follows:

1. Amend Section 1, page 1, line 16 and 17 by deleting “means an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C.A. 501(c)(3)).”, substituting therefore the following:

“is defined as:

- a. A corporation, trust, community chest, fund, foundation or other entity which is organized for scientific, educational, philanthropic, or environmental purposes, social welfare, the arts and humanities, or any other civic or public purpose as described in Section 501(c)(3) of the Internal Revenue Code of 1954.
- b. Any trust whose stated purpose is to benefit in whole or in part an entity of the type previously described in subsection a.
- c. Any gift, by inter vivos or testamentary disposition, to an entity of the type previously described in subsection a.”

The amendment was read.

Senator Farabee moved to concur in the House amendment.

The motion prevailed.

**SENATE BILL 383 WITH HOUSE AMENDMENTS**

Senator McKnight called S.B. 383 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 383:

A BILL TO BE ENTITLED  
AN ACT

relating to the membership of the Texas Real Estate Research Advisory Committee and the continuation and functions of the Real Estate Research Center.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (b), Section 86.52, Texas Education Code, is amended to read as follows:

(b) The advisory committee is composed of nine persons appointed by the governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the senate ~~[without senate confirmation]~~, with the following representation:

(1) six members shall be real estate brokers, licensed as such for at least five years preceding the date of their appointment, who ~~[have been recommended by the Texas Real Estate Commission and]~~ are representative of each of the following real estate specialties:

(A) one member shall be principally engaged in real estate brokerage;

(B) one member shall be principally engaged in real estate financing;

(C) one member shall be principally engaged in the ownership or construction of real estate improvements;

(D) one member shall be principally engaged in the ownership, development or management of residential properties;

(E) one member shall be principally engaged in the ownership, development or management of commercial properties; and

(F) one member shall be principally engaged in the ownership, development or management of industrial properties; ~~[and]~~

(2) three members shall be representatives of the general public;

(3) members representative of the general public who are appointed after the effective date of this Act shall not be licensed real estate brokers or salesmen and shall not have, other than as consumers, a financial interest in the practice of a licensed real estate broker or salesman; and

(4) it is grounds for removal from the advisory committee if:

(A) a broker member of the committee ceases to be a licensed real estate broker; or

(B) a public member of the committee appointed after the effective date of this Act or a person related to the member within the second degree by consanguinity or within the second degree by affinity acquires a real estate license or a financial interest in the practice of a licensed real estate broker or salesman.

SECTION 2. Section 86.52, Texas Education Code, is amended by adding Subsections (j), (k), (l), and (m) to read as follows:

(j) Each member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act.

(k) The advisory committee is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), and the provisions of Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9b, Vernon's Texas Civil Statutes).

(l) The state auditor shall audit the financial transactions of the center in each fiscal year.

(m) On or before January 1 of each year, the center shall file with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the center during the preceding year.

SECTION 3. Section 86.511, Texas Education Code, is amended to read as follows:

Sec. 86.511. The Real Estate Research Center is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act, the center is abolished, and this subchapter expires effective September 1, 1993 [1984].

SECTION 4. Section 86.53, Texas Education Code, is amended to read as follows:

Sec. 86.53. PURPOSES, OBJECTIVES, AND DUTIES OF THE CENTER. The purposes, objectives, and duties of the center are as follows:

(1) to conduct studies in all areas that relate directly or indirectly to real estate and/or urban or rural economics and to publish and disseminate the findings and results of the studies;

(2) to assist the teaching program in real estate offered by the colleges and universities in the State of Texas when requested to do so, and to award scholarships and establish real estate chairs when funds are available.

(3) to supply material to the Texas Real Estate Commission for the preparation of the examinations for real estate salesmen and brokers, if requested to do so by the commission;

(4) to develop and from time to time revise and update materials for use in the extension courses in real estate offered by the universities and colleges in the State of Texas when requested to do so;

(5) to assist the Texas Real Estate Commission in developing standards for the accreditation of vocational schools and other teaching agencies giving courses in the field of real estate, and standards for the approval of courses in the field of real estate, as and when requested to do so by the commission;

(6) to make studies of and recommend changes in state statutes and municipal ordinances, providing however that no staff member of the center shall directly contact legislators or locally elected officials concerning the recommendations except to provide a factual response to an inquiry as to the method of research or nature of the findings;

(7) provided and except, however, that those conducting such research and studies shall periodically review their progress with the advisory committee or its designated representative, and the results of any research project, or study, shall not be published or disseminated until it has been reviewed and approved in writing by the advisory committee or its designated representative; and

(8) to prepare information of consumer interest describing the functions of the center and to make the information available to the general public and appropriate state agencies.

SECTION 5. Section 5(j), The Real Estate License Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) Fifteen dollars received by the commission for each annual certification of real estate broker licensure status and \$7.50 received by the commission for each annual certification of real estate salesman licensure status shall be transmitted to Texas A & M University for deposit in a separate banking account. The money in the separate account shall be expended for the support and maintenance of the Texas Real Estate Research Center and for carrying out the purposes, objectives, and duties of the center. Money may be expended from the separate account only as authorized by itemized legislative appropriation.

SECTION 6. All laws and parts of laws in conflict with this Act are repealed.

SECTION 7. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Floor Amendment No. 1 - Presnal

Amend C.S.S.B. 383 by striking Section 5 in its entirety and substituting in lieu thereof the following:

SECTION 5. Subsection (j), Section 5 of the Texas Real Estate Licensure Act, as amended (Article 6573a, Vernon's Texas Civil Statutes), is amended to read as follows:

(j) Fifteen dollars received by the commission from fees received from real estate brokers ~~[for each annual certification of real estate broker licensure status]~~ and \$7.50 received by the commission ~~[for each annual certification of]~~ from fees received from real estate [salesman] salesmen for licensure status shall be transmitted annually to Texas A & M University for deposit in a separate banking account. The money in the separate account shall be expended for the support and maintenance of the Texas Real Estate Research Center and for carrying out the purposes, objectives, and duties of the center. However, all money expended from the separate account shall be as determined by legislative appropriations.

The amendments were read.

Senator McKnight moved to concur in the House amendments.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### SENATE BILL 807 WITH HOUSE AMENDMENT

Senator Jones called S.B. 807 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Saunders

Substitute the following for S.B. 807:

A BILL TO BE ENTITLED  
AN ACT

relating to standards of valuation for insurance certificates of fraternal benefit societies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Articles 10.07, 10.08, 10.16 and 10.30, Insurance Code, as amended, are amended to read as follows:

"Article 10.07. CONTRIBUTIONS ON CERTIFICATES; HOW BASED. The contributions to be made upon such certificate shall be based upon the 'Standard Industrial Mortality Table Three and One-half Per Cent,' or the 'English Life Table Number Six,' or upon such other mortality and interest standards permitted by the Standard Valuation Law and authorized by the laws of this state for use by life insurance companies for a similar type of contract or benefit issued in the same calendar year or such other mortality table as may be approved by the ~~[Chairman of]~~ State Board of Insurance ~~[Commissioners]~~."

"Article 10.08. RESERVES. Any society issuing such benefit certificates shall maintain on all such certificates the reserves required by the ~~[Standard Mortality and Interest Tables]~~ mortality and interest standards adopted by the society for computing contributions, the same to be first approved by the State Board of Insurance ~~[Commissioners]~~."

"Article 10.16. FUNDS. Any society may create, maintain, invest, disburse and apply an emergency surplus or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment of the surrender of any part thereof, except as provided in Article 10.05 of this chapter. The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed shall be derived from periodical or other payments by the members of the society and accretions of said funds. No society, domestic or foreign, shall hereafter be incorporated or admitted to transact business in this State which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress, August 23, 1899, or any higher standard with interest assumption not more than four (4%) per cent per annum, or any mortality tables and interest assumptions authorized presently or in the future which would be permitted by the Standard Valuation Law for use by life insurance companies for a similar type of contract or benefit issued in the same calendar year, nor write or accept members for temporary or permanent disability benefits except upon tables based upon reliable experience, with ~~[an]~~ interest assumptions authorized presently or in the future which would be permitted by the Standard Valuation Law for use by life insurance companies, ~~[not higher than four (4%) per cent per annum]~~ for a similar type of disability benefit issued in the same calendar year. Provided however, that any society may value its certificates in accordance with valuation standards otherwise authorized by the laws of this state for the valuation of similar policies issued by life insurance

companies. Deferred payments or installments of claims shall be considered as fixed liabilities on the happenings of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities."

"Article 10.30. ANNUAL REPORTS. Every society transacting business in this State shall annually, on or before the first day of March, file with the State Board of Insurance [~~Commissioners~~] in such form as the Board may require, a statement under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and its transactions for the year ending on that date, and shall furnish such other information as said Board may deem necessary to a proper exhibit of its business and plan of working. The Board may at other times require any further statement it may deem necessary to be made relating to such society.

In addition to such annual report, each society shall annually report to said Board a valuation of its certificates in force on December 31st last preceding, excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses. Such report of valuation shall show as contingent liabilities the present mid-year value of the promised benefits provided in the constitution and laws of such society, under the certificates subject to valuation; and as contingent assets the present mid-year value of the future net contributions provided in the Constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions may be the mean of the terminal values for the end of the preceding and of the current insurance years. Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the Department of Insurance of the home State of the society, and shall be filed with the State Board of Insurance [~~Commissioners~~] within ninety (90) days after the submission of the last preceding annual report. The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress Table of Mortality as adopted by the National Congress, August 23, 1889; or, at the option of the society, any higher table; or, at its option, it may use a table based upon the society's own experience of at least twenty (20) years, and covering not less than one hundred thousand (100,000) lives with interest assumption not more than four (4%) per centum per annum, provided, however, that any society may value its certificates in accordance with valuation standards otherwise authorized by the laws of this state for the valuation of similar policies issued by life insurance companies. Each such valuation report shall set forth clearly and fully the mortality and interest bases and the method of valuation.

Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds and the valuation of all other business of the society; provided, that where a combined contribution table is used by a society for both death and permanent total disability benefits, the valuation shall be according to tables or reliable experiences, and in such cases a separation of the funds shall not be required.

The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the society, but each society shall be held to be



legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities. A report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1st of each year; or in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society.

The laws of such society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws additional, increased or extra rates of contributions shall be collected from the members to meet such deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five (5%) per centum per annum."

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Jones moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 180 WITH HOUSE AMENDMENTS**

Senator Snelson called **S.B. 180** from the President's table for consideration of the House amendments to the bill.

Senator Snelson moved to concur in the House amendments.

On motion of Senator Snelson and by unanimous consent, the motion to concur was withdrawn.

#### **SENATE BILL 630 WITH HOUSE AMENDMENTS**

Senator Snelson called **S.B. 630** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Polumbo

Substitute the following for **S.B. 630**:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the establishment of a statewide system of early childhood intervention programs for certain handicapped children.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

**Article I**

**SECTION 1. DEFINITIONS.** In this article:

(1) "Council" means the Interagency Council on Early Childhood Intervention Services.

(2) "Department" means the Texas Department of Health.

(3) "Developmentally delayed child" means a child who exhibits:

(A) a significant delay, beyond acceptable variations in normal development, in one or more of the following areas:

(i) cognitive;

(ii) gross or fine motor;

(iii) language or speech;

(iv) social or emotional;

(v) self-help skills; or

(B) an organic defect or condition that is very likely to result in such a delay.

**SECTION 2. INTERAGENCY COUNCIL.** (a) The Interagency Council on Early Childhood Intervention Services is composed of one lay member and one representative each from the Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Resources, and the Central Education Agency. The governor, with the advice and consent of the senate, shall appoint the lay member, and the commissioner of each agency shall appoint that agency's representative.

(b) A member appointed by an agency serves for a term of two years or until the person terminates employment with the agency, whichever occurs first. The member appointed by the governor serves for a term of two years expiring February 1 of every odd-numbered year.

(c) The members of the council shall annually elect one member to serve as chairman.

(d) The council shall meet at least quarterly and shall adopt rules for the conduct of its meetings.

(e) Any action taken by the council must be approved by a majority vote of the members present.

**SECTION 3. STATE PLAN.** (a) The council shall develop and implement a state plan for early childhood intervention services to ensure that:

(1) the provisions of this article are properly implemented by the agencies affected;

(2) child and family needs are assessed statewide and all available resources are coordinated to meet those needs;

(3) manpower needs are assessed statewide and strategies are developed to meet those needs;

(4) incentives are offered for private sources to maintain present commitments and to assist in developing new programs; and

(5) a procedure for review of individual complaints about services provided under this article is implemented.

(b) The council shall make written recommendations for the carrying out of its duties under this article. If the council considers a recommendation that will affect an agency not represented on the council, the council shall seek the advice and assistance of the agency before taking action on the recommendation. The council's recommendations shall be implemented by the agencies affected by the recommendations.

**SECTION 4. ADVISORY COMMITTEE.** (a) The council shall establish an advisory committee composed of parents, professionals, and advocacy

groups. The council shall appoint as many members as it considers necessary to assist the council in the performance of its duties.

(b) The committee shall meet and serve under the rules of the council, but the committee shall elect its own chairman. The committee may be divided into regional committees to assist the council in community-level program planning and implementation.

**SECTION 5. DUTIES.** (a) The council, with the advice of the committee, shall address contemporary issues affecting intervention services in the state including:

- (1) successful intervention strategies;
- (2) personnel preparation and continuing education;
- (3) screening services;
- (4) day or respite care services;
- (5) public awareness; and
- (6) contemporary research.

(b) The council, with the advice of the committee, shall advise the legislature on legislation that is needed to further develop and maintain a statewide system of quality intervention services for all developmentally delayed children under three years of age. The council may develop and submit legislation to the legislature or comment on pending legislation that affects this population.

**SECTION 6. REIMBURSEMENT AND STAFF SUPPORT.** (a) Council and committee members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. The agencies represented on the council shall equally bear the cost of reimbursement.

(b) The agencies represented on the council shall provide staff support to the council. The agencies may provide staff support to the committee.

**SECTION 7. PUBLIC AWARENESS AND TRAINING.** (a) The Texas Department of Health, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Resources, and the Central Education Agency shall jointly develop and implement:

(1) a general public awareness strategy focusing on the importance of prenatal care and early detection of developmental delay and the availability of state resources to meet the needs of developmentally delayed children under six years of age; and

(2) a statewide plan for conducting regional training sessions for public and private service providers who have routine contact with children under six years of age that focuses on methods for early detection of developmental delay.

(b) The department shall allocate funds appropriated to it under this article to other agencies that assume implementation responsibilities.

**SECTION 8. EARLY IDENTIFICATION STRATEGY.** (a) The department shall develop and implement a statewide strategy for the early identification of developmentally delayed children under six years of age, utilizing information from other agencies serving handicapped children.

(b) The strategy must include plans to:

(1) incorporate, strengthen, and expand similar existing local efforts;

(2) incorporate and coordinate screening services currently provided through a public agency; and

(3) establish a liaison with primary referral sources, including hospitals, physicians, public health facilities, and day-care facilities, to encourage referrals of developmentally delayed children.

**SECTION 9. FOLLOW-UP.** (a) A child under six years of age may be referred to the department for services described by this section if the child is:

- (1) identified as developmentally delayed;
- (2) suspected of being developmentally delayed; or
- (3) considered at risk of developmental delay because of certain biological or environmental factors.

(b) For each child referred, the department shall:

- (1) seek appropriate medical or developmental screening or evaluation; and

(2) refer the child to a public or private program that can meet the child's needs.

(c) Services under this section shall be provided in a manner that minimizes intrusion into family privacy.

**SECTION 10. ELIGIBILITY FOR SERVICES.** A developmentally delayed child is eligible for services under Sections 11-13 and 16 of this article if the child is under three years of age.

**SECTION 11. PARENT COUNSELING AND CASE MANAGEMENT.**

(a) For an eligible developmentally delayed child, the department shall provide parent counseling and case management services.

(b) Those services shall be designed to:

- (1) assist in the development of positive attitudes and coping skills;
- (2) provide objective information about alternatives for securing direct services for the child;

(3) actively involve the case manager in procuring needed services on the parent's behalf;

(4) actively involve the case manager in responding to complaints about services procured through this process; and

(5) facilitate communication among providers serving the child, including the primary physician.

(c) The services shall be provided before a child is placed in an appropriate program. If the child is placed in a program that meets the standards established by Section 19 of this article, that program shall assume responsibility for providing parent counseling and case management services following placement. If the child is not placed in such a program, the department shall continue to provide those services.

**SECTION 12. MONITORING.** (a) The department shall monitor the overall progress of an eligible developmentally delayed child who receives services under Section 11 of this article until the child enters the public school system.

(b) Periodic reevaluations shall be obtained as the department considers necessary. If an original placement no longer meets the child's needs, the department shall provide additional referrals.

**SECTION 13. INTERVENTION SERVICES.** (a) The department shall provide intervention services to an eligible developmentally delayed child if the department is not able to place the child in a program that meets the standards established by Section 19 of this article.

(b) Intervention services must include:

(1) training, counseling, and case management services for the child's parents;

(2) individualized instruction or treatment in the following areas of development: cognitive, gross or fine motor, language or speech, social or emotional, and self-help skills; and

(3) related services, including occupational therapy, physical therapy, speech and language therapy, adaptive equipment, and transportation.

(c) The department may either directly provide the services needed to comply with the requirements of this section or contract for the provision of the services.

SECTION 14. REPORT. The department shall report to the council any needs identified in areas where a program that meets the standards established by Section 19 of this article is not available.

SECTION 15. NEW PROGRAM STRATEGY. The council shall develop a strategy for establishing new programs to meet needs identified by the department in accordance with Section 14 of this article.

SECTION 16. GRANT REQUEST FOR NEW PROGRAM. A public or private service provider may apply for funds to provide a program of intervention services for eligible developmentally delayed children in an area of identified need by submitting a grant request to the Central Education Agency or the Texas Department of Mental Health and Mental Retardation. The council shall adopt guidelines for determining which agency shall receive a request, but each agency shall process any request received.

SECTION 17. APPROVAL CRITERIA. (a) The agency receiving a request for funding for a new program shall transmit the request to the council for approval.

(b) The council shall review the requests on a competitive basis giving consideration to the following:

- (1) the extent to which the program would meet identified needs;
- (2) the cost of initiating a program, if applicable;
- (3) whether other funding sources are available;
- (4) the proposed cost to the parents for the services; and
- (5) the assurance of quality services.

SECTION 18. PROGRAM APPROVAL. (a) For each grant approved by the council, the council shall direct the department to allocate appropriated funds for the program to the service provider in the amount specified by the council.

(b) The department shall require the service provider to execute a contract with the department specifying the program standards and agency guidelines that the provider has agreed to meet.

(c) The contract must specify the minimum and maximum number of eligible developmentally delayed children to be served. The program must serve at least the minimum number and may not be required to serve more than the maximum number specified. If the number of eligible children applying for admission to an approved program exceeds the maximum number specified, the service provider may apply for supplemental funding.

(d) The service provider may charge a fee for intervention services, based on the parent's ability to pay, to be used to offset the cost of providing or securing the services. If a fee is charged, a separate charge shall be made for each type of service. A determination of the parent's ability to pay for services must include a consideration of the availability of financial assistance or other benefits for which the child may be eligible.

SECTION 19. PROGRAM STANDARDS. Before a grant request for a new program may be approved, the provider must agree to meet the following program standards:

- (1) the program must be maintained within the guidelines established by the agency;
- (2) the provider must ensure that, for each child served, an individualized developmental plan is developed and is based on a comprehensive developmental evaluation performed by an interdisciplinary team with parent participation and periodic review and reevaluation;
- (3) the provider must provide services to meet the unique needs of each child as indicated by the child's individualized developmental plan;

(4) the provider must demonstrate a capability to obtain or provide an array of services that must include:

(A) training, counseling, case management services, and home visits for the parents of each child served;

(B) individualized instruction or treatment in the following areas of development: cognitive, gross or fine motor, language or speech, social or emotional, and self-help skills; and

(C) related services, including occupational therapy, physical therapy, speech and language therapy, adaptive equipment, and transportation;

(5) the provider must maintain a plan for in-service personnel training;

(6) the provider must cooperate with the department's monitoring and case management efforts; and

(7) the provider must cooperate with the periodic evaluation efforts of the agency.

SECTION 20. AGENCY GUIDELINES. (a) The agency that receives a grant request for a new program shall develop specific program guidelines in the following areas:

(1) instructional or treatment options;

(2) frequency and duration of service;

(3) staff-child ratios;

(4) staff composition and qualifications; and

(5) other program aspects designed to ensure the provision of quality services.

(b) The agency may modify the standards established by Section 19 of this article if the agency considers the modifications necessary for a particular program.

SECTION 21. PROGRAM EVALUATION. (a) Each agency shall periodically evaluate each program operating under the agency's guidelines to determine whether the provider is meeting the conditions of the contract.

(b) If an agency determines that a program is not meeting a requirement that was agreed on as a condition for funding, the agency shall notify the department to withhold further funding for the program.

#### Article II

SECTION 1. Chapter 11, Texas Education Code, as amended, is amended by adding Section 11.092 to read as follows:

#### Sec. 11.092. EARLY CHILDHOOD INTERVENTION PROGRAMS.

(a) A public or private entity may apply for funds to provide an intervention program for eligible developmentally delayed children by submitting a grant request to the Central Education Agency.

(b) "Developmentally delayed child" means a child who exhibits:

(1) a significant delay, beyond acceptable variations in normal development, in one or more of the following areas:

(A) cognitive;

(B) gross or fine motor;

(C) language or speech;

(D) social or emotional;

(E) self-help skills; or

(2) an organic defect or condition that is very likely to result in such a delay.

(c) A developmentally delayed child is eligible for services under this section if the child is under three years of age.

(d) The agency shall allocate appropriated funds to local intervention programs on a competitive basis giving consideration to the following:

(1) the extent to which the program would meet identified needs;  
(2) the cost of initiating a program, if applicable;  
(3) the need for funds from the agency if other funding sources are available;

(4) the proposed cost to the parents for the services; and  
(5) the assurance of quality services.

(e) After approval of a grant request, the agency shall execute a contract with the service provider that requires the provider to agree to meet the following program standards:

(1) the program must be maintained within the guidelines established by the agency;

(2) the provider must ensure that, for each child served, an individualized developmental plan is developed and is based on a comprehensive developmental evaluation performed by an interdisciplinary team with parent participation and periodic review and reevaluation;

(3) the provider must provide services to meet the unique needs of each child as indicated by the child's individualized developmental plan;

(4) the provider must demonstrate a capability to obtain or provide an array of services that must include:

(A) training, counseling, case management services, and home visits for the parents of each child served;

(B) individualized instruction or treatment in these areas of development: cognitive, gross or fine motor, language or speech, social or emotional, and self-help skills; and

(C) related services, including occupational therapy, physical therapy, speech and language therapy, adaptive equipment, and transportation;

(5) the provider must maintain a plan for in-service personnel training;

(6) the provider must cooperate with the Texas Department of Health's monitoring and case management efforts; and

(7) the provider must cooperate with the periodic evaluation efforts of the agency.

(f) The contract must specify the minimum and maximum number of eligible developmentally delayed children to be served. The program must serve at least the minimum number and may not be required to serve more than the maximum number specified. If the number of eligible children applying for admission to an approved program exceeds the maximum number specified, the service provider may apply for supplemental funding.

(g) The service provider may charge a fee for intervention services, based on the parent's ability to pay, to be used to offset the cost of providing or securing the service. A determination of the parent's ability to pay must include a consideration of the availability of financial assistance or other benefits for which the child may be eligible. If a fee is charged, a separate charge shall be made for each type of service.

(h) The agency shall develop specific program guidelines in the following areas:

(1) instructional or treatment options;

(2) frequency and duration of service;

(3) staff-child ratios;

(4) staff composition and qualifications; and

(5) other program aspects designed to ensure the provision of quality services.

The agency may modify the standards established by Subsection (e) of this section if the agency considers the modifications necessary for a particular program.

(i) The agency shall periodically evaluate an approved program to determine whether the service provider is meeting the conditions of the contract. If the agency determines that a program is not meeting a requirement that was agreed on as a condition for funding, the agency shall withhold further funding for the program.

(j) The agency shall develop a method of response to individual complaints regarding services provided by a program funded under this section.

(k) Eligible children as authorized under this section also shall include those children authorized under Sec. 11.052(a) and Sec. 11.10(O), Texas Education Code.

(l) If a fee for intervention services provided pursuant to this section is charged to parents of an eligible developmentally delayed child who was receiving free services under Section 16.161 of this code before the effective date of this section, the agency shall reimburse the parents of that child for the amount of the fee if the parents are not eligible for reimbursement from another source.

SECTION 2. Section 11.052(a), Texas Education Code, as amended, is amended to read as follows:

(a) The Central Education Agency shall develop and administer a comprehensive statewide plan for the education of ~~the~~ visually handicapped children under 21 years of age which will ensure that the ~~visually-handicapped~~ children have an opportunity for achievement equal to the opportunities afforded their peers with normal vision.

SECTION 3. Section 11.10(o), Texas Education Code, as amended, is amended to read as follows:

(o) To carry out legislative intent and the objectives of subsection ~~subsections~~ (n) and the following subsections of this Section 11.10, the Central Education Agency shall employ a director and assistant director of services to the deaf. The director of services to the deaf shall develop and administer a comprehensive statewide plan for deaf education services including continuing diagnosis and evaluation, counseling and teaching, and designed to accomplish the following objectives:

(1) Assisting and counseling parents of children of any age whose hearing is determined by professionally acceptable evaluation to be nonfunctional for education purposes, such assistance and counseling to be provided in each of the regional day school programs for the deaf hereinbelow authorized, and admitting all children under 21 years of age ~~between the ages of three and 21~~ whose hearing is determined by professionally acceptable evaluation to be nonfunctional for educational purposes to the regional day school programs for the deaf; and

(2) Enabling a majority or as many as may be practicable of deaf children to reside with their parents or guardians and be afforded compensatory education in their home school districts or in facilities of regional day school programs for the deaf; and

(3) Enabling deaf children who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the deaf for daily commuting or to be accommodated five nights a week in foster homes or other residential school facilities provided for by the Central Education Agency in order that such children may attend a regional day school program for the deaf; and

(4) Enrolling in the Texas School for the Deaf at Austin or any other educational facility for the deaf as determined by the parents of deaf children only those children whose needs can best be met in that institution, designating the Texas School for the Deaf as the statewide educational resource



for students to whom adequate educational opportunities are unavailable in local or regional programs; and

(5) Encouraging children enrolled in regional day school programs for the deaf who have demonstrated ability to do so to return to regular school classes on a part-time, full-time or trial basis. Supplemental aid from the regional day school program for the deaf shall be made available to such children; and

(6) Recognizing the need for development of oral communications abilities in deaf children and the ability of many to achieve high educational excellence through that method, but also recognizing the inability of some to gain their education successfully by this means, the comprehensive plan developed by the director of services to the deaf will call for the use of methods of communication which will best meet the needs of each individual deaf child in this state, with each child to be examined thoroughly so as to ascertain his potential for communications through oral means. The director of services to the deaf may establish separate programs to accommodate diverse communication methodologies.

### Article III

SECTION 1. The Texas Mental Health and Mental Retardation Act, as amended (Article 5547-201 et seq., Vernon's Texas Civil Statutes), is amended by adding Article 5 to read as follows:

#### Art. 5. EARLY CHILDHOOD INTERVENTION PROGRAMS

Sec. 5.01. DEFINITION. In this article, "developmentally delayed child" means a child who exhibits:

(1) a significant delay, beyond acceptable variations in normal development, in one or more of the following areas:

- (A) cognitive;
- (B) gross or fine motor;
- (C) language or speech;
- (D) social or emotional;
- (E) self-help skills; or

(2) an organic defect or condition that is very likely to result in such a delay.

Sec. 5.02. ELIGIBILITY. A developmentally delayed child is eligible for services under this article if the child is under three years of age.

Sec. 5.03. GRANT REQUEST. A public or private entity may apply for funds to provide an intervention program for eligible developmentally delayed children by submitting a grant request to the department.

Sec. 5.04. APPROVAL CRITERIA. The department shall allocate appropriated funds to local intervention programs on a competitive basis giving consideration to the following:

- (1) the extent to which the program would meet identified needs;
- (2) the cost of initiating a program, if applicable;
- (3) the need for funds from the department if other funding sources are available;
- (4) the proposed cost to the parents for the services; and
- (5) the assurance of quality services.

Sec. 5.05. CONTRACT. (a) After approval of a grant request, the department shall execute a contract with the service provider that requires the provider to agree to meet the following program standards:

- (1) the program must be maintained within the guidelines established by the department;
- (2) the provider must ensure that, for each child served, an individualized developmental plan is developed and is based on a comprehensive

developmental evaluation performed by an interdisciplinary team with parent participation and periodic review and reevaluation;

(3) the provider must provide services to meet the unique needs of each child as indicated by the child's individualized developmental plan;

(4) the provider must demonstrate a capability to obtain or provide an array of services that must include:

(A) training, counseling, case management services, and home visits for the parents of each child served;

(B) individualized instruction or treatment in these areas of development: cognitive, gross and fine motor, language and speech, social and emotional, and self-help skills; and

(C) related services, including occupational therapy, physical therapy, speech and language therapy, adaptive equipment, and transportation;

(5) the provider must maintain a plan for in-service personnel training;

(6) the provider must cooperate with the monitoring and case management efforts of the Texas Department of Health; and

(7) the provider must cooperate with the periodic evaluation efforts of the department.

(b) The contract must specify the minimum and maximum number of eligible developmentally delayed children to be served. The program must serve at least the minimum number and may not be required to serve more than the maximum number specified. If the number of eligible children applying for admission to an approved program exceeds the maximum number specified, the service provider may apply for supplemental funding.

Sec. 5.06. FEES. The service provider may charge a fee for intervention services, based on the parent's ability to pay, to be used to offset the cost of providing or securing the service. A determination of the parent's ability to pay for services must include a consideration of the availability of financial assistance or other benefits for which the child may be eligible. If a fee is charged, a separate charge shall be made for each type of service.

Sec. 5.07. GUIDELINES. (a) The department shall develop specific program guidelines in the following areas:

(1) instructional or treatment options;

(2) frequency and duration of service;

(3) staff-child ratios;

(4) staff composition and qualifications; and

(5) other program aspects designed to ensure the provision of quality services.

(b) The department may modify the standards established by Section 5.05 of this article if the agency considers the modifications necessary for a particular program.

Sec. 5.08. PERIODIC EVALUATION. The department shall periodically evaluate an approved program to determine whether the service provider is meeting the conditions of the contract. If the department determines that a program is not meeting a requirement that was agreed on as a condition for funding, the department shall withhold further funding for the program.

Sec. 5.09. COMPLAINTS. The department shall develop a method of response to individual complaints regarding services provided by a program funded under this article.

SECTION 2. Section 28, Mentally Retarded Persons Act of 1977 (Article 5547-300, Vernon's Texas Civil Statutes), is amended by adding Subsection (d) to read as follows:

(d) This section does not apply to an eligible developmentally delayed child served under Article 5, Texas Mental Health and Mental Retardation Act, as amended.

**Article IV**

SECTION 1. Section 2, Chapter 216, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. A crippled child is defined as any person under the age of 21 who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development ~~[under twenty one (21) years of age, whose physical functions, movements, or sense of hearing are impaired by reason of a joint, bone, ossicular chain, or muscle defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for rehabilitation service under this Act, the child's disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical or surgical care, optometric care, artificial appliances, or through a combination of these services. For the purposes of this Act, a "crippled child" includes a child whose sole or primary handicap is blindness or other substantial visual handicap, but the responsibility for rendering services to a child crippled with blindness or other substantial visual handicap is that of the Commission for the Blind].~~

**Article V**

SECTION 1. REPEALER. Section 16.161, Texas Education Code, is repealed.

SECTION 2. INITIAL APPOINTMENT TO INTERAGENCY COUNCIL. The term of the first member appointed by the governor to the Interagency Council on Early Childhood Intervention Services created by Section 2, Article I, of this Act, expires February 1, 1983.

SECTION 3. EFFECTIVE DATE. This Act takes effect September 1, 1981.

SECTION 4. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - Blanton

Amend S.B. 630 by amending Section 1 of Article IV to read as follows:

SECTION 1. Section 2, Chapter 216, Acts of the 49th Legislature, Regular Session, 1945, as amended (Article 4419c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. A crippled child is defined as any person under twenty-one (21) years of age, whose physical functions, movements, or sense of hearing are impaired by reason of a joint, bone, ossicular chain, ~~[or]~~ muscle or neurological defect or deformity, to the extent that the child is or may be expected to be totally or partially incapacitated for education or remunerative occupation. To be eligible for rehabilitation service under this Act, the child's disability must be such that it is reasonable to expect that such child can be improved through hospitalization, medical, or surgical care, optometric care, artificial appliances, or through a combination of these services. For the purposes of this Act, a "crippled child" includes a child whose sole or primary handicap is blindness or other substantial visual handicap, but the responsibility for rendering services to a crippled child with blindness or other substantial visual handicap is that of the Commission for the Blind.

The amendments were read.

Senator Snelson moved to concur in the House amendments.

The motion prevailed.

#### **SENATE BILL 937 WITH HOUSE AMENDMENT**

Senator Snelson called **S.B. 937** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1 - Crawford

Amend **S.B. 937** by adding the following on page 2 before Section 2.

“(d) The university shall hold in reserve any fee revenue that exceeds the amount necessary to meet the operating expenses of the student center and may apply that revenue only to future operating expenses of the student center.”

“(e) No State appropriated funds may be used to construct, operate, maintain, improve, or program the student center.”

The amendment was read.

Senator Snelson moved to concur in the House amendment.

The motion prevailed by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 592 WITH HOUSE AMENDMENTS**

Senator Brooks called **S.B. 592** from the President's table for consideration of the House amendments to the bill.

Senator Brooks moved to concur in the House amendments.

On motion of Senator Brooks and by unanimous consent, the motion to concur was withdrawn.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1421 ADOPTED**

Senator Mengden called from the President's table the Conference Committee Report on **H.B. 1421**. (The Conference Committee Report having been filed with the Senate and read on Thursday, May 21, 1981)

On motion of Senator Mengden, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

#### **SENATE BILL 592 WITH HOUSE AMENDMENTS**

Senator Brooks called **S.B. 592** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

Committee Amendment No. 1 - Evans

Substitute the following for S.B. 592:

A BILL TO BE ENTITLED  
AN ACT

relating to continuation of the Texas Board of Private Investigators and Private Security Agencies and regulation and licensing of certain persons engaged in the business or occupation of conducting investigations or providing security services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 2(3), and 14, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), are amended by adding provisions for the licensing of persons to use an audio stress detector and Section 2(26) is added to read as follows:

Section 2. (3) "Investigations company" means any person who engages in the business or accepts employment to obtain or furnish information with reference to:

(a) crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, damages or injuries to persons or to property;

(e) the securing of evidence to be used before any court, board, officer, or investigating committee; or

(f) the detecting of deception, verifying of truth of statements, or eliciting of information in an investigation by use of an audio stress detector.

(26) "Audio stress detector" means an instrument, other than a polygraph, used to measure and permanently record one or more of an individual's physiological reactions or emotions for the purpose of detecting deception, verifying the truth of statements, or eliciting information in an investigation.

SECTION 14. (b) (1) An applicant who applies for a license to engage in the business of an investigations company or his manager shall have three (3) years consecutive experience prior to the date of said application in the investigative field, as an employee, manager, or owner of an investigations company or other requirements as shall be set by the board. The experience of the applicant must be reviewed by the board or by the director, and determined to be adequate to qualify the applicant to engage in the business of an investigations company, and

(2) An applicant who applies for a license to operate a voice stress detector as defined in Section 2(26), shall be a graduate of a course approved by the board, at a school approved by the board, and that consists of at least 80 classroom hours of instruction specializing in the operation of a voice stress detector.

SECTION 2. Section 4, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and by adding Subsections (e) and (f) to read as follows:

(d) The Texas Board of Private Investigators and Private Security Agencies is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes); and unless continued in existence as provided by that Act the board is abolished, and this Act expires effective September 1, 1993 [1981].

(e) Funds paid to the board under this Act shall be deposited in the State Treasury to the credit of the General Revenue Fund.

(f) The board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 3. Section 11, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and by adding Subsections (c) and (d) to read as follows:

(a) The board shall have the following powers and duties:

(1) to determine the qualifications of licensees, registrants, and commissioned security officers as provided in this Act;

(2) to investigate alleged violations of the provisions of this Act and of any rules and regulations adopted by the board;

(3) to promulgate all rules and regulations necessary in carrying out the provisions of this Act ~~[after giving 30 days' notice to interested parties of proposed rules and regulations and an opportunity for the parties to express their views and be represented by an attorney]; and~~

(4) to establish and enforce standards governing the safety and conduct of persons licensed, registered, and commissioned under the provisions of this Act; ~~and~~

~~[(5) to provide for grievances and appeal procedures for persons whose license, registration, or security officer commission is revoked or suspended, or who is denied an application for a license, registration, or security officer commission, or who has received any other penalty or sanction by the board].~~

(c) On or before January 1 of each year, the board shall file with the Governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board in the preceding year.

(d) The board may recognize, prepare, or administer continuing education programs for persons regulated by the board under this Act. Participation in the programs is voluntary.

SECTION 4. Subsection (e), Section 11A, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The board may institute an action in its name against a person to enjoin a violation of this Act or a rule or regulation of the board. For the board to sustain the action, the board does not have to allege or prove that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation. The board may not be required to give an appeal bond in any cause arising under this Act. ~~[sue in district court to enjoin a violation of this Act. The attorney general shall represent the board in injunction actions.]~~

SECTION 5. Subsection (a), Section 14, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(a) An applicant for a license or his manager must:

- (1) be at least 18 years of age;
- (2) ~~be a citizen of the United States;~~
- ~~[(3)] not have been convicted in any jurisdiction of any felony unless [or any crime involving moral turpitude for which] a full pardon has [not] been granted or unless the applicant was placed on probation, satisfied the conditions of probation, and had the accusation, complaint, information, or indictment against the applicant dismissed;~~
- (3) not have been convicted in any jurisdiction of a misdemeanor involving moral turpitude during the seven-year period preceding the date of application unless a full pardon has been granted for the conviction;
- (4) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and has not been restored;
- (5) not be suffering from habitual drunkenness or from narcotics addiction or dependence; and
- (6) not have been discharged from the armed services of the United States under other than honorable conditions[;]
- ~~[(7) be of good moral character;~~
- ~~[(8) be in compliance with any other reasonable qualifications that the board may fix by rule].~~

SECTION 6. Section 15, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by adding Subsections (e) and (f) to read as follows:

(e) Within 30 days after the day on which a licensing examination is administered under this Act, the board shall notify each examinee of the results of the examination. However, if an examination is graded or reviewed by a national testing service, the board shall notify each examinee of the results of the examination within two weeks after the day that the board receives the results from the testing service. If the notice of the examination results will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

(f) If requested in writing by a person who fails the licensing examination administered under this Act, the board shall furnish the person with an analysis of the person's performance on the examination.

SECTION 7. Subsections (a), (e), (g), (h), (i), (j), (k), and (l), Section 19, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), are amended to read as follows:

- (a) It is unlawful and punishable as provided in Section 44 of this Act:
- (1) for an individual employed as a private security officer to knowingly carry a handgun during the course of performing his duties as a private security officer if the board has not issued him a security officer commission under this section; ~~or~~
- (2) for any person to hire or employ an individual or for any individual to accept employment in the capacity of a private security officer to carry a handgun in the course and scope of his duties unless the private security officer is issued a security officer commission by the board; or
- (3) for a commissioned security officer to carry a handgun unless:
  - (A) he is engaged in the performance of his duties as a security officer or is engaged in traveling directly to or from his place of assignment;
  - (B) he wears a distinctive uniform indicating that he is a security officer; and
  - (C) the handgun is in plain view.
- (e) The employer of a private security officer who makes application for a security officer commission shall submit an application to the board on a form provided by the board. ~~[A \$15 fee shall accompany each application for a security officer commission.]~~

(g) The board shall send a copy of each application for a security officer commission to the Texas Department of Public Safety and to the sheriff of the county and the chief of police of the principal city of the county in which the applicant resides. A sheriff or chief of police who wishes to object to the issuance of a security officer commission to a particular applicant may do so by mailing or otherwise delivering a written statement of his objection and his reasons to the board.

(h) If the board decides to issue a security officer commission over the objections of a sheriff or chief of police, it shall mail a notice of its decision to the objecting officer and give him an opportunity to request a hearing before the board to contest the board's decision. If the objecting officer files a request for a hearing within 30 days after the date the notice was mailed to him, the board shall set the matter for a hearing. The board may not issue a security officer commission over the objection of a sheriff or chief of police unless it finds at the hearing that there is good cause to issue the commission over the objection or, if no hearing is requested, until the time for requesting a hearing has passed.

(i) ~~[(h)]~~ Each security officer commission issued under this section shall be in the form of a pocket card designed by the board, and shall identify the licensee or the security department of a private business by whom the holder of the security officer commission is employed. A security officer commission expires on the date the license of the licensee who employs the officer expires or, if the officer is employed by the security department of a private business, one year after the date it is issued. No charge may be imposed for the pocket card, ~~but an annual renewal fee for a commission is \$10~~.

(j) ~~[(i)]~~ If the holder of the security officer commission terminates his employment with the licensee or the security department of a private business or transfers his residence to another county, he must return the pocket card to his employer and his employer must return the pocket card to the board within 14 days of the date of termination of the employment or transfer of business.

(k) ~~[(j)]~~ The board shall provide by rule the procedure by which a licensee or the security department of a private business may issue a temporary security officer commission to a private security officer who has made application to the board for a security officer commission.

(l) ~~[(k)]~~ Subsection (a) of this section does not apply to the holder of a valid temporary security officer commission issued under this section if the holder is in uniform and in possession of only one handgun and engaged in the performance of his duties.

~~[(l)] The board may suspend or deny a security officer commission if the holder or applicant is indicted for a felony or for a misdemeanor involving moral turpitude.~~

SECTION 8. Subsection (b), Section 31, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Upon application of a licensee the board shall issue a branch office license. ~~[The fee for a branch office license shall be \$100; the fee for a renewal for such license shall be \$100.]~~

SECTION 9. Section 45, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by adding Subsections (d), (e), (f), and (g) to read as follows:

(d) A person may renew an unexpired license by paying to the board before the expiration date of the license the required renewal fee.

(e) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the board the required renewal fee and a fee that is one-half of the examination fee for the license.



(f) If a person's license has been expired for longer than 90 days but less than two years, the person may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the examination fee for the license.

(g) If a person's license has been expired for two years or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

SECTION 10. The Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), is amended by amending Sections 5, 10, 11B, 17, 24, 25, and 30 and by adding Sections 12A and 50A to read as follows:

Sec. 5. BOARD MEMBERSHIP. (a) The board is composed of the following members:

(1) the director of the Texas Department of Public Safety or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(2) the Attorney General or his designated representative shall serve as an ex officio member of such board, and such service shall not jeopardize the individual's official capacity with the State of Texas;

(3) one city or county law enforcement officer shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointee and with the advice and consent of the Senate;

(4) two members shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are citizens of the United States and residents of the State of Texas; and

(5) three members shall be appointed by the Governor, without regard to the race, creed, sex, religion, or national origin of the appointees and with the advice and consent of the Senate, who are licensed under this Act, who have been engaged for a period of five consecutive years as a private investigator or security services contractor, and who are not employed by the same person as any other member of the board.

(b) A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of private security;

(2) is employed by or participates in the management of a business entity or other organization related to the field of private security; or

(3) has, other than as a consumer, a financial interest in a business entity or other organization related to the field of private security.

(c) A member or employee of the board may not be an officer, employee, or paid consultant of a trade association in the private security industry.

(d) A member or employee of the board may not be related within the second degree by affinity or within the second degree by consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry. A person who is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the board or act as the general counsel to the board.

(e) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (a) or (b) of this section for appointment to the board;

(2) does not maintain during the service on the board the qualifications required by Subsection (a) or (b) of this section for appointment to the board;

(3) violates a prohibition established by Subsection (c) or (d) of this section; or

(4) does not attend at least one-half of the regularly scheduled meetings held by the board in a calendar year, excluding meetings held when the person was not a member of the board.

(f) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Sec. 10. COMPENSATION OF BOARD MEMBERS; PERSONNEL MATTERS. (a) A member of the board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the general appropriations act. [The members of the board shall serve without pay but shall be reimbursed for their actual expenses.] The number of employees and the salaries of each shall be fixed in the General Appropriations Act. [Bill.]

(b) The director of the board or his designee shall develop an intra-agency career ladder program, one part of which shall be the intra-agency posting of each job opening with the board in a nonentry level position. The intra-agency posting shall be made at least 10 days before any public posting is made.

(c) The director of the board or his designee shall develop a system of annual performance evaluations of the board's employees based on measurable job tasks. Any merit pay authorized by the director shall be based on the system established under this subsection.

Sec. 11B. REVOCATION, SUSPENSION, ETC. (a) The board shall [may] revoke or suspend any registration, license, or security officer commission, reprimand any registrant, licensee, or commissioned security officer, or deny an application for a registration, license, or security officer commission, or renewal thereof, or may place on probation a person whose registration, license, or security officer commission has been suspended, on proof:

(1) that the applicant, licensee, commissioned security officer, or registrant has violated any provisions of this Act or of the rules and regulations promulgated under this Act;

(2) that the applicant, licensee, commissioned security officer, or registrant has committed any act resulting in conviction of a felony [or a crime involving moral turpitude];

(3) that the applicant, licensee, commissioned security officer, or registrant has committed an act after the date of application for a registration, license, or security officer commission that results in a conviction of a misdemeanor involving moral turpitude;

(4) [(3)] that the applicant, licensee, commissioned security officer, or registrant has practiced fraud, deceit, or misrepresentation; or

(5) [(4)] that the applicant, licensee, commissioned security officer, or registrant has made a material misstatement in the application for or renewal of a license, registration, or security officer commission[+]

[(5) that the applicant, licensee, commissioned security officer, or registrant has demonstrated incompetence or untrustworthiness in his actions].

(b) If the board proposes to refuse a person's application for a registration, license, or security officer commission, to suspend or revoke a person's registration, license, or security officer commission, or to place on

probation a person whose registration, license, or security officer commission has been suspended, the person is entitled to a hearing before the board. ~~[The board shall, before acting under Subsection (a) of this section provide 30 days' written notice to the applicant, licensee, commissioned security officer, or registrant of the charges and give him an opportunity to request a hearing before the board and be represented by an attorney. A hearing shall be scheduled by the board on such request.]~~

(c) Proceedings for the refusal, suspension, or revocation of a registration, license, or security officer commission or for the probation of a person are governed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). ~~[In the event that the board denies the application for, or revokes or suspends any license, security officer commission, or registration, or imposes any reprimand, the board's determination shall be in writing and officially signed. The original copy of the determination when so signed, shall be filed with the board and copies shall be mailed to the applicant, licensee, commissioned security officer, or registrant, and the complainant within two days after the filing.]~~

~~[(d) The board may suspend any registration on conviction in this state or any other state or territory of the United States, or in any foreign country, of a felony for a period not exceeding 30 days pending a hearing and a determination of charges. If the licensee is a corporation, proof of actual participation and knowledge on the part of the registrant is required. If the hearing is adjourned at the request of the registrant, the suspension may be continued for an additional period of the adjournment.]~~

Sec. 17. FEES. (a) The board shall establish reasonable and necessary fees for the administration of this Act in amounts not to exceed:

1. Class A license (original & renewal)	\$225
2. Class B license (original & renewal)	225
3. Class C license (original & renewal)	340
4. Reinstate suspended license	150
5. Assignment of license	150
Change name of license	75
Delinquency fee	
Branch office certificate and renewal	150
Registration fee for private investigators, managers, and branch office managers (original & renewal)	25
License termination fee	10
Security officer commission fee	
original	25
renewal	15

(b) The State Auditor shall audit the financial transactions of the board in each fiscal biennium. ~~[(a) The fee for making application for an original Class A or Class B license is \$150, and \$75 of the fee is not refundable.]~~

~~[(b) The fee for making application for an original Class C license is \$225, and \$75 of the fee is not refundable.]~~

~~[(c) The fee for renewing an original license is the same as the original license fee.]~~

~~[(d) The fee to reinstate a suspended license is \$100.~~  
~~[(e) The fee for an original branch office license as defined in Subdivision (20), Section 2 of this Act is \$100. The renewal fee for a branch office license is \$100.~~

~~[(f) The fee for changing the business name of a licensee is \$50.~~  
~~[(g) The delinquency fee for not renewing a license in the month prior to its expiration date is \$100.]~~

Sec. 24. LICENSE NOT ASSIGNABLE. A license issued under this Act is not assignable unless the assignment is approved in advance by the board. ~~[The fee for assignment of a license is \$100.]~~

Sec. 25. TERMINATION OF LICENSE. The board shall prescribe by rule the procedure under which a license issued under this Act may be terminated. ~~[The fee for the termination of a license under this Act shall be established by the board in an amount not to exceed \$5.]~~

Sec. 30. ADVERTISEMENTS. (a) Every advertisement by a licensee soliciting or advertising business shall contain his company name and address and license number as they appear in the records of the board.

(b) The board may not adopt rules restricting competitive bidding or advertising by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person. The board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the board a rule that:

- (1) restricts the person's use of any medium for advertising;
- (2) restricts the person's personal appearance or use of his personal voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the person; or
- (4) restricts the person's advertisement under a trade name.

Sec. 12A. CONSUMER INFORMATION. (a) The board shall prepare information of consumer interest describing the regulatory functions of the board and describing the board's procedures by which consumer complaints are filed with and resolved by the board. The board shall make the information available to the general public and appropriate State agencies.

(b) Each written contract for services in this State of a company licensed under this Act shall contain the name, mailing address, and telephone number of the board.

(c) There shall be displayed prominently in the place of business of each licensee regulated under this Act, a sign containing the name, mailing address, and telephone number of the board and a statement informing consumers that complaints against licensees can be directed to the board.

Sec. 50A. COMPLAINTS. (a) The board shall keep an information file about each complaint filed with the board relating to a person regulated by the board.

(b) If a written complaint is filed with the board relating to a person regulated by the board, the board, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notification would jeopardize an undercover investigation.

SECTION 11. A rule adopted by the Texas Board of Private Investigators and Private Security Agencies before September 1, 1981, that conflicts with the Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as amended by this Act, is void. Within 90 days after September 1, 1981, the board shall repeal the rule.

SECTION 12. Sections 39 and 50, Private Investigators and Private Security Agencies Act, as amended (Article 4413(29bb), Vernon's Texas Civil Statutes), are repealed.

SECTION 13. A person holding office as a member of the Texas Board of Private Investigators and Private Security Agencies on the effective date of this Act continues to hold the office for the term for which the member was originally appointed.

SECTION 14. (a) This Act takes effect September 1, 1981.

(b) The requirements of Sections 10(b) and (c), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as added by this Act, that the director of the board develop an intra-agency career ladder and a system of annual performance evaluations, shall be implemented before September 1, 1982. The requirement of Section 10(c) that merit pay is to be based on this system shall be implemented before September 1, 1983.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule be suspended, and this rule is hereby suspended.

Floor Amendment No. 1 - T. Smith

Amend C.S.S.B. 592 by striking Section 1 of the bill and by renumbering the remaining sections appropriately.

Floor Amendment No. 2 - Riley

Amend C.S.S.B. 592 on page 5 by striking the underlined language on lines 16-19.

The amendments were read.

Senator Brooks moved to concur in the House amendments.

The motion prevailed.

#### HOUSE BILL 649 REREFERRED

On motion of Senator Mengden and by unanimous consent, H.B. 649 was withdrawn from the Committee on Jurisprudence and rereferred to the Committee on State Affairs.

#### CONSIDERATION OF HOUSE BILL 1192 POSTPONED

On motion of Senator Howard and by unanimous consent, consideration of H.B. 1192 was again postponed until the conclusion of Morning Call tomorrow, Wednesday, May 27, 1981. (On Friday, May 22, 1981, the Senate postponed consideration of H.B. 1192 until the conclusion of Morning Call today.)

#### HOUSE BILL 2196 REREFERRED

On motion of Senator Kothmann and by unanimous consent, H.B. 2196 was withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on State Affairs.

#### COMMITTEE SUBSTITUTE HOUSE BILL 521 ON THIRD READING

On motion of Senator Parker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

**C.S.H.B. 521**, Relating to credit in the Employees Retirement System of Texas for certain service performed for a county child welfare board.

The bill was read third time and was passed.

**HOUSE BILL 324 ON SECOND READING**

Senator Mauzy asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**H.B. 324**, Relating to lifetime workers' compensation benefits for certain injuries resulting in total and permanent incapacity.

There was objection.

(Senator Brooks in Chair)

Senator Mauzy then moved to suspend the regular order of business and take up **H.B. 324** for consideration at this time.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Snelson, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Short, Traeger.

The bill was read second time and was passed to third reading.

**HOUSE BILL 324 ON THIRD READING**

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 324** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

(President in Chair)

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

**SENATE RESOLUTION 748**

Senator Glasgow offered the following resolution:

**S.R. 748**, Commending Louise Mandrell for her honorable attempts to make this a better society and her contributions to Hill County and its people.

The resolution was read and was adopted..

**GUESTS PRESENTED**

Senator Glasgow was recognized and presented Louise Mandrell and her husband, R. C. Bannon.

Miss Mandrell was welcomed by the Senate and briefly addressed the Senate.

Miss Mandrell was presented an enrolled copy of Senate Resolution 748, and a Texas flag, which had been flown over the Capitol.

**COMMITTEE SUBSTITUTE HOUSE BILL 1465 ON SECOND READING**

On motion of Senator Jones and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 1465**, Relating to revising various provisions of law governing the property tax and its administration.

**FLOOR PRIVILEGES GRANTED**

On motion of Senator Jones and by unanimous consent, Ron Patterson of the Legislative Council was granted privileges of the floor in order to sit at Senator Jones' desk during discussion of **C.S.H.B. 1465**.

The bill was read second time.

Senator Jones offered the following amendment to the bill:

Amend **C.S.H.B. 1465** by adding a new section, appropriately numbered, between lines 59 and 60 on page 37 to read as follows:

**SECTION \_\_\_\_**. Chapter 33, Property Tax Code, is amended by adding Section 33.07 to read as follows:

**Sec. 33.07 ADDITIONAL PENALTY FOR COLLECTION COSTS.**

(a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district has contracted with an attorney pursuant to Section 6.30 of this code. The amount of the penalty may not exceed 15 percent of the amount of taxes, penalty, and interest due.

(b) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(c) If a penalty is imposed pursuant to this section, a taxing unit may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

(d) If a taxing unit or appraisal district provides for a penalty under this section, the collector shall deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend Section 90, quoted Sec. 25.19, Subsection (b)(6) at page 83, to read as follows:

(6) a statement of the amount of taxes that would be imposed on the property by each unit if the governing body of that unit increases the tax rate for the current year to the rate in effect in the preceding year and does not adopt a lower ratio of assessment; and, in italic typeface, the following statement: "The Texas Legislature does not set the amount of your local taxes. Your property tax burden is decided by your locally-elected officials, and all inquiries concerning your taxes should be directed to such officials."

The amendment was read and was adopted.

Senator Ogg offered the following amendment to the bill:

Amend **H.B. 1465** by adding a new Section 23 to read as follows and renumbering all following Sections of the bill accordingly:

"Section 23. Section 11.01, Property Tax Code, is amended to read as follows:

Section 11.01. Real and Tangible Personal Property

(a) All real and tangible personal property that this state has jurisdiction to tax is taxable unless exempt by law.

(b) This state has jurisdiction to tax real property if located in this state.

(c) This state has jurisdiction to tax tangible personal property if the property is:

(1) located in this state for longer than a temporary period;

(2) temporarily located outside this state and the owner resides in this state; or

(3) used continually, whether regularly or irregularly, in this state.

(d) Goods, wares, ores (~~other than oil, gas, and other petroleum products~~), and merchandise are presumed to be in interstate commerce and/or are not to be located in this state for longer than a temporary period if the property is:

(1) transported from outside this state into this state to be forwarded outside this state;

(2) detained in this state for assembling, storing, manufacturing, processing, or fabricating purposes; and

(3) not located in this state for longer than 175 days."

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 21, Nays 10.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, Meier, Parker, Richards, Santiesteban, Sarpalus, Short, Traeger, Truan, Uribe.

Nays: Brown, Leedom, McKnight, Mengden, Ogg, Snelson, Travis, Vale, Williams, Wilson.



Senator Travis offered the following amendment to the bill:

Amend **C.S.H.B. 1465** by adding a new Section 109 between lines 33 and 34 on page 37 to read as follows:

Section 33.01, Property Tax Code is amended to read as follows:

Section 33.01, Property Tax Code is amended to read as follows:

(a) A delinquent tax incurs a penalty of six (~~four~~) percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve (~~eight~~) percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent.

(b) If a person who exercises the split-payment option provided by Section 31.03 of this code fails to make the second payment before July 1, the second payment is delinquent and incurs a penalty of twelve (~~eight~~) percent of the amount of unpaid tax.

(c) A delinquent tax accrues interest at a rate of (~~three fourths of~~) one percent for each month or portion of a month the tax remains unpaid.

(Senator Meier in Chair)

The amendment was read and was adopted by the following vote: Yeas 22, Nays 9.

Yeas: Blake, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Meier, Mengden, Parker, Richards, Santiesteban, Sarpalius, Snelson, Traeger, Travis, Vale, Wilson.

Nays: Andujar, Brooks, Mauzy, McKnight, Ogg, Short, Truan, Uribe, Williams.

Question - Shall the bill as amended be passed to third reading?

#### SENATE RULE 103 SUSPENDED

On motion of Senator Mauzy and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Jurisprudence might consider **S.R. 744** today.

#### RECESS

On motion of Senator Mauzy the Senate at 12:00 o'clock p.m. took recess until 2:00 o'clock p.m. today.

#### AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1465 ON SECOND READING

The Senate resumed consideration of **C.S.H.B. 1465** on its second reading and passage to third reading.

Question - Shall the bill as amended be passed to third reading?

Senator Brooks offered the following amendment to the bill:

Amend Sec. 6.031(b) to read as follows:

(b) The taxing units participating in an appraisal district may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the change, however, a change under this subsection is not valid if it deprives any taxing unit that does not adopt a resolution proposing it of more than one-half the voting entitlement it would have under Section 6.03 of this code or if it expands the types of taxing units that are entitled to vote on appointment of board members.

The amendment was read.

On motion of Senator Brooks and by unanimous consent, the amendment was withdrawn.

Senator Mengden offered the following amendment to the bill:

Amend C.S.H.B. 1465 by striking the phrase "and the number of qualified voters voting on the question in the election exceeds 20 (25) percent of the qualified voters residing in the taxing unit" in quoted Section 26.07(e) of Section 101 and in quoted Section 26.08 (e) of Section 102.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 20, Nays 8.

Yeas: Blake, Brooks, Caperton, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, Ogg, Parker, Richards, Santiesteban, Sarpalius, Snelson, Truan, Uribe, Williams, Wilson.

Nays: Andujar, Brown, Doggett, Leedom, Meier, Mengden, Short, Travis.

Absent: McKnight, Traeger, Vale.

Senator Caperton offered the following amendment to the bill:

Amend House Bill 1465 as follows:

(1) Amend SECTION 104 to read as follows:

SECTION 104. Sections 31.01(a) and (d), Property Tax Code, are amended to read as follows:

(a) Except as provided by Subsection (f) of this section, the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll or to his authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the Texas Department of Corrections the tax bill for property owned by the agency. The agency shall pay the taxes from funds appropriated for payment of the taxes, or if there are none, from funds appropriated for the administration of the agency.

(d) ~~Each [The]~~ tax bill ~~[for the county]~~ shall also state the amount of penalty, if any, imposed pursuant to Sections 23.87 and 23.97 ~~[22.27]~~ of this code.

(2) Add a new SECTION \_\_, to read as follows:

SECTION \_\_\_\_\_. Section 11.11, Property Tax Code, is amended by adding Subsection (d) to read as follows:

(d) Property owned by the Texas State Technical Institute or the Texas Department of Corrections is not used for public purposes if the property is used to provide housing for members of the public other than students and employees of the Texas State Technical Institute or inmates of the Texas Department of Corrections. Any notice required by Section 25.19 of this code shall be sent to the agency that owns the property, and it shall appear in behalf of the state in any protest or appeal related to taxation of the property.

(3) Appropriately renumber the subsequent SECTIONS of House Bill 1465.

The amendment was read.

(Senator Wilson in Chair)

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 17, Nays 8.

Yeas: Andujar, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Ogg, Parker, Santiesteban, Sarpalius, Snelson, Travis, Uribe, Vale, Wilson.

Nays: Blake, Brooks, Caperton, Doggett, Kothmann, Mauzy, Short, Williams.

Absent: Brown, McKnight, Mengden, Richards, Traeger, Truan.

(Senator Meier in Chair)

Senator Short offered the following amendment to the bill:

Amend C.S.H.B. 1465 on pg. 8, Line 16 to read as follows:

"SECTION 28. Chapter 11, Property Tax Code, is amended by adding Section 11.161 to read as follows:

Sec. 11.161. IMPLEMENTS OF HUSBANDRY. A person is entitled to an exemption from taxation of implements of husbandry that he owns and uses in the production of farm or ranch products."

Renumber Section 28 to read "29" and all other sections accordingly.

The amendment was read.

On motion of Senator Jones, the amendment was tabled by the following vote: Yeas 17, Nays 11.

Yeas: Andujar, Blake, Brooks, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Mauzy, McKnight, Ogg, Parker, Richards, Santiesteban, Sarpalius, Vale.

Nays: Caperton, Doggett, Kothmann, Meier, Short, Snelson, Traeger, Travis, Uribe, Williams, Wilson.

Absent: Brown, Mengden, Truan.

Senator Brooks offered the following amendment to the bill:

Amending Sec. 6.031(b) of C.S.H.B. 1465 to read as follows:

(b) The taxing units participating in an appraisal district may increase the number of members on the board of directors of the district to not more than 13, change the method or procedure for appointing the members, or both, if the governing bodies of three-fourths of the taxing units that are entitled to vote on the appointment of board members adopt resolutions providing for the change, however, a change under this subsection is not valid if it deprives any one or more taxing units that do not adopt a resolution proposing it of more than one-half the total voting entitlement under Section 6.03 of this code or if it expands the types of taxing units that are entitled to vote on appointment of board members.

The amendment was read and was adopted.

Senator Wilson offered the following amendment to the bill:

Amend C.S.H.B. 1465 as follows:

(1) On page 20, between lines 26 and 27, add the following:

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(2) On page 20, between lines 37 and 38, add the following:

(g) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends or after a change in the category of agricultural use. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(h) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be

collected at the same time and in the same manner as the taxes on the property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(i) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility had ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(3) On page 36 add the following between "Sections" and "23.87":  
"23.54".

The amendment was read and was adopted.

#### RECORD OF VOTE

Senator Mauzy asked to be recorded as voting "Nay" on the adoption of the amendment.

Senator Wilson offered the following amendment to the bill:

Amend C.S.H.B. 1465 as follows:

(1) On page 21, between lines 49 and 50, add the following:

(e) If a person fails to file a valid application on time, the land is ineligible for appraisal as provided by this subchapter for that year. Once an application is filed and appraisal under this subchapter is allowed, the land is eligible for appraisal under this subchapter in subsequent years without a new application unless the ownership of the land changes or its eligibility under this subchapter ends. However, the chief appraiser if he has good cause to believe the land's eligibility under this subchapter has ended, may require a person allowed appraisal under this subchapter in a prior year to file a new application to confirm that the land is currently eligible under this subchapter by delivering a written notice that a new application is required, accompanied by the application form, to the person who filed the application that was previously allowed.

(2) On page 21, between lines 54 and 55, add the following:

(g) A person whose land is allowed appraisal under this subchapter shall notify the appraisal office in writing before May 1 after eligibility of the land under this subchapter ends. If a person fails to notify the appraisal office as required by this subsection a penalty is imposed on the property equal to 10 percent of the difference between the taxes imposed on the property in each year it is erroneously allowed appraisal under this subchapter and the taxes that would otherwise have been imposed.

(h) The chief appraiser shall make an entry in the appraisal records for the property against which the penalty is imposed indicating liability for the penalty and shall deliver a written notice of imposition of the penalty to the person who owns the property. The notice shall include a brief explanation of the procedures for protesting the imposition of the penalty. The assessor for each taxing unit that imposed taxes on the property on the basis of appraisal under this subchapter shall add the amount of the penalty to the unit's tax bill for taxes on the property against which the penalty is imposed. The penalty shall be collected at the same time and in the same manner as the taxes on the

property against which the penalty is imposed. The amount of the penalty constitutes a lien on the property against which the penalty is imposed and accrues penalty and interest in the same manner as a delinquent tax.

(i) If the chief appraiser discovers that appraisal under this subchapter has been erroneously allowed in any one of the 10 preceding years because of failure of the person whose land was allowed appraisal under this subchapter to give notice that its eligibility had ended, he shall add the difference between the appraised value of the land under this subchapter and the market value of the land to the appraisal roll as provided by Section 25.21 of this code for other property that escapes taxation.

(3) On page 21, strike lines 26 and 27 and substitute the following:

SECTION 65. Section 23.75, Property Tax Code is amended to read as follows:

(4) On page 36 add the following at the end of line 54:

“, 23.75,”.

The amendment was read and was adopted.

Senator Wilson offered the following amendment to the bill:

Amend **H.B. 1465** by adding the following new sections:

SECTION Subchapter C, Chapter 23, Property Tax Code, is amended by adding Section 23.431 to read as follows:

Sec. 23.431. LATE APPLICATION FOR AGRICULTURAL DESIGNATION. (a) The chief appraiser shall accept and approve or deny an application for an agricultural designation after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If an application for agricultural designation is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed without the agricultural designation.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit to which an agricultural designation allowed after a late application applies shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

SECTION Subchapter D, Chapter 23, Property Tax Code, is amended by adding Section 23.541 to read as follows:

Sec. 23.541. LATE APPLICATION FOR APPRAISAL AS AGRICULTURAL LAND. (a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

SECTION Subchapter E, Chapter 23, Property Tax Code, is amended by adding Section 23.751 to read as follows:

Sec. 23.751. LATE APPLICATION FOR APPRAISAL AS TIMBERLAND. (a) The chief appraiser shall accept and approve or deny an application for appraisal under this subchapter after the deadline for filing it has passed if it is filed before approval of the appraisal records by the appraisal review board.

(b) If appraisal under this subchapter is approved when the application is filed late, the owner is liable for a penalty of 10 percent of the difference between the amount of tax imposed on the property and the amount that would be imposed if the property were taxed at market value.

(c) The chief appraiser shall make an entry on the appraisal records indicating the person's liability for the penalty and shall deliver written notice of imposition of the penalty, explaining the reason for its imposition, to the person.

(d) The tax assessor for a taxing unit that taxes land based on an appraisal under this subchapter after a late application shall add the amount of the penalty to the owner's tax bill, and the tax collector for the unit shall collect the penalty at the time and in the manner he collects the tax. The amount of the penalty constitutes a lien against the property against which the penalty is imposed, as if it were a tax, and accrues penalty and interest in the same manner as a delinquent tax.

Also on page 36, add the following on line 54 between "Sections" and "23.87": "23.431, 23.541, 23.751,"

The amendment was read and was adopted.

Senator Jones offered the following amendment to the bill:

Amend C.S.H.B. 1465 by striking "30" on page 38, line 24, and substituting "15".

The amendment was read and was adopted.

On motion of Senator Jones and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1465 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1465 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 1.

Yeas: Andujar, Blake, Brooks, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Snelson.

Absent: Brown, Caperton, Mengden, Truan.

The bill was read third time and was passed.

#### **RECORD OF VOTE**

Senator Snelson asked to be recorded as voting "Nay" on the final passage of the bill.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
May 26, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 604**, Relating to continuation of the Texas Board of Examiners in the Fitting and Dispensing of Hearing Aids and regulation of the fitters and dispensers of hearing aid devices. (With amendments)

**S.B. 152**, Relating to the confidentiality of records of clients served by the facilities of the Texas Department of Mental Health and Mental Retardation and by community centers for mental health and mental retardation services.

**S.B. 132**, Relating to the jurisdiction of the Justice Courts in counties with a population of 1,500,000 or more. (With amendment)

**S.B. 232**, Relating to continuation of the State Board of Veterinary Medical Examiners and regulation of the practice of veterinary medicine. (With amendments)

**S.B. 988**, Relating to abolition of the Merit System Council of the Texas Employment Commission and creation of the Texas Merit System Council.

**S.B. 779**, Relating to requiring certain products to contain additives to discourage the intentional inhalation of toxic fumes or vapors. (With amendment)

**S.B. 730**, Relating to increasing payments to local governments from the mixed beverage tax clearance fund and the expenditure by local governments of money received from the fund. (With amendments)



**S.B. 1021**, Relating to the creation of the criminal justice coordinating council. (With amendment)

**S.B. 763**, Relating to the amount of payments that may be made by the Texas Youth Council to a county under certain contracts. (With amendment)

**S.B. 476**, Relating to the regulation of the care and treatment of animals in animal exhibits of circuses, carnivals and zoos.

**S.B. 619**, Relating to removing from the ambit of the Deceptive Trade Practice-Consumer Protection Act transactions between sophisticated business concerns. (With amendment)

**S.B. 823**, Relating to including persons with neurofibromatosis in the category of persons eligible for services under the crippled children's program.

**S.B. 292**, Relating to the fee charged by the Texas Department of Health for copies of vital records.

**S.B. 536**, Relating to the adoption of an interstate compact concerning violations of certain traffic offenses by nonresidents.

**S.B. 727**, Relating to the licensing and regulation of bail bondsmen. (With amendments)

**S.B. 745**, Relating to ownership of a licensed managing general agent in the insurance business.

**S.B. 431**, Relating to the encouragement of county jail discipline, commutation of sentences for good conduct, and forfeiture of commutation.

**S.B. 471**, Relating to foster care for children in the conservatorship of the Texas Department of Human Resources.

**S.B. 1215**, Relating to appropriations to North Texas State University.

**S.B. 89**, Relating to state compensation of certain resident physicians.

**S.B. 865**, Relating to the general closed shrimp season in outside water. (With amendments)

**H.B. 1463**, Relating to the acquisition and use by state governmental bodies of automated information systems and the computers on which they are automated and of computing or system design services.

**H.B. 1791**, Appropriating funds to Texas Woman's University for repair or replacement of laboratory facilities and equipment destroyed or damaged by fire.

**H.B. 1995**, Relating to amendments to the state employee health insurance program.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**HOUSE BILL 790 ON SECOND READING**

On motion of Senator Travis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 790**, Relating to the use of emergency warning devices on authorized emergency vehicles.

The bill was read second time.

Senator Travis offered the following committee amendment to the bill:

Amend **H.B. 790** as follows:

(1) On page 1, strike lines 5 and 6 and substitute the following:  
"SECTION 1. Section 24, Uniform Act Regulating Traffic on Highways (Article 6701d,".

(2) On page 1, line 15, after "vehicle" insert "that is used for law enforcement purposes".

(3) On page 2, line 8, after "vehicle" insert "that is used for law enforcement purposes".

The committee amendment was read and was adopted.

On motion of Senator Travis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

**HOUSE BILL 790 ON THIRD READING**

Senator Travis moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 790** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Brown, Caperton, Mengden, Truan.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent: Brown, Caperton, Mengden, Truan.

**HOUSE BILL 1685 ON SECOND READING**

On motion of Senator Traeger and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1685**, Authorizing the Board of Health to establish in the Texas Department of Health an Epilepsy Program to provide diagnostic, treatment, research and support services to all eligible persons who have epilepsy.

The bill was read second time and was passed to third reading.

#### HOUSE BILL 1685 ON THIRD READING

Senator Traeger moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1685 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Brown, Caperton, Mengden, Truan.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1.

Yeas: Andujar, Blake, Brooks, Brown, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams.

Nays: Wilson.

Absent: Caperton, Mengden, Truan.

(President in Chair)

#### SENATE RESOLUTION 752

Senator Howard offered the following resolution:

WHEREAS, Mr. V. E. Howard, who has devoted his life to Christian evangelism, will celebrate his 50 years in the ministry on May 24, 1981; and

WHEREAS, Born near Farmerville, Louisiana, on September 29, 1911, to Hardy and Corine Howard, he grew up in Rocky Branch Community, Louisiana; and

WHEREAS, Precocious as a young man, Mr. Howard graduated from Byrd High School in Shreveport, where he excelled, and came to Texas to study at Abilene Christian College; he also attended Harding University in Searcy, Arkansas, and Arkansas State Teachers' College; and

WHEREAS, On December 20, 1931, just as the Great Depression had begun to wreak impoverishment throughout the nation, Mr. Howard married the very gracious and lovely Ruth Jackson; together, with spiritual unity and faith in God, they weathered these economically woeful days and led very rich inner lives; and

WHEREAS, Mr. and Mrs. Howard have three children of whom they are justly proud: one daughter, Mrs. Kay Young of Killeen; and two sons, Mr. Jasper Howard and Senator Ed Howard of Texarkana; this entire family, along with 13 grandchildren, will join the celebration of Mr. Howard's semicentennial of ministerial work; and

WHEREAS, In June, 1931, Mr. Howard began his career as an evangelist in Powell, Texas, and thereafter brought comfort and enlightenment to many during one of the most difficult periods of our nation's history; and

WHEREAS, Throughout his 50-year career Mr. Howard has specialized in radio evangelism; as Speaker for the "International Gospel Hour" he is heard throughout the United States and Bermuda; and

WHEREAS, This Christian leader has received numerous awards, including the 35-year "Are You Listening?" Award from the World Radio Gospel Hour; Harding University has honored him with its Distinguished Christian Service Award, and in 1979 he was the honoree of the Annual Appreciation Dinner of Freed-Hardeman College in Henderson, Tennessee, where he serves on the Board of Directors; and

WHEREAS; It is appropriate that the Senate of Texas pay tribute to the work of this man of God upon his landmark 50th anniversary as a minister; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 67th Legislature, hereby commend Mr. V. E. Howard upon his lifetime of evangelical service and especially on this commemoration of 50 years in the ministry; and, be it further

RESOLVED, That Mr. Howard's example in religious vocation be recommended to all who aspire to a life of service to God; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Mr. Howard as an expression of high regard, admiration, and gratitude from the Senate of Texas.

The resolution was read and was adopted.

#### SENATE RESOLUTION 737

Senator Doggett offered the following resolution:

**S.R. 737**, Commending Maggie Kuhn for her efforts to combat systematic prejudice against the elderly.

The resolution was read and was adopted.

#### GUEST PRESENTED

Senator Doggett escorted Ms. Kuhn to the President's Rostrum. The President presented Ms. Kuhn with an enrolled copy of Senate Resolution 737.

Ms. Kuhn was welcomed as a guest of the Senate today.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1334 ON SECOND READING

Senator Brooks moved to suspend the regular order of business to take up for consideration at this time:

**C.S.H.B. 1334**, Relating to shelter and services for victims of family violence and funding for these programs; adding Subtitle E to the Human Resources Code; amending Subsection (c), Section 205.03, Alcoholic Beverage Code; and repealing Sections 1 through 10, Chapter 98, Acts of the 66th Legislature, Regular Session, 1979 (Article 695p, Vernon's Texas Civil Statutes).

The motion prevailed by the following vote: Yeas 23, Nays 4.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Glasgow, Kothmann, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Brown, Harris, Leedom, Travis.

Absent: Farabee, Howard, Jones, Snelson.

The bill was read second time.

Senator Brooks offered the following amendment to the bill:

Amend the Committee Substitute for House Bill No. 1334 by striking Section 51.011 of SECTION 1 and all of SECTION 2, substituting in lieu thereof the following, and renumbering the remaining sections:

Section 51.011. FUNDING. (a) In order to finance the program created by this Act, the department is authorized to solicit and receive grants of money from either private or public sources, including appropriation by the legislature from the general revenue fund of the State of Texas, and in that regard it is hereby declared that the need for and importance of this program require priority and preferential consideration in appropriation.

(b) The department may utilize not more than six percent of the annual legislative appropriation to the family violence program for administration of this Act and not more than six percent annually for the contracts described in Subsection (b) of Section 51.003 of this Act.

The amendment was read and was adopted.

On motion of Senator Brooks and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### RECORD OF VOTE

Senator Travis asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### COMMITTEE SUBSTITUTE HOUSE BILL 1334 ON THIRD READING

Senator Brooks moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that C.S.H.B. 1334 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 3.

Yeas: Andujar, Blake, Brooks, Caperton, Doggett, Glasgow, Kothmann, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Traeger, Truan, Uribe, Vale, Williams, Wilson.

Nays: Harris, Leedom, Travis.

Absent: Brown, Farabee, Howard, Jones, Snelson.

The bill was read third time and was passed.

#### RECORD OF VOTE

Senator Travis asked to be recorded as voting "Nay" on the final passage of the bill.

**MESSAGE FROM THE HOUSE**

House Chamber  
May 26, 1981

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

The House has **TABLED H.B. 915** by Washington by a Record Vote of 94 ayes, 50 noes, and 1 present-not voting.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**COMMITTEE SUBSTITUTE HOUSE BILL 411 ON SECOND READING**

On motion of Senator Mengden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**C.S.H.B. 411**, Relating to authority of a home-rule city to annex or to pledge revenue from certain state-owned submerged lands.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

Amend **C.S.H.B. 411**, Section 1 as follows:

In Section 11.0131(c), between the words, "located", (page 1, line 25), and "gulfward", (page 1, line 26), by inserting "more than one marine league".

The amendment was read and was adopted.

Senator Brown offered the following amendment to the bill:

Amend **C.S.H.B. 411** by striking lines 21 and 22 and substituting the following:

"(b) A home-rule city may not annex state-owned submerged lands located:

- (1) gulfward from the coastline; or
- (2) more than 5,280 feet from the corporate city boundaries in bays or estuaries.

The amendment was read and was adopted.

Senator Brown offered the following amendment to the bill:

Amend Section 2 of **C.S.H.B. 411** by Mengden to read as follows:

SECTION 2. This Act does not affect an Annexation that was completed before the effective date of this Act or a contract or agreement that is in effect on the effective date of this Act except for an annexation previous to the effective date of this Act of a territory within a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, but not a river authority, that furnishes water and sewer service to householders, and the district continues to exist on the 91st day after the date of the last reading of the purported annexation ordinance of the territory by a home-rule city, in which the following shall apply;

A. **DISANNEXATION AND INCORPORATION.** If a home-rule city on or after the effective date of this Act undertakes, or previously undertook, to annex territory within a conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, but not a river authority, that furnishes water and sewer service to householders, and the district continues to exist on the 91st day after the date of the last reading of the purported annexation ordinance, the residents of all or any portion of the territory may apply to the county judge of the county in which the territory is located for an election to determine whether the territory shall be disannexed and incorporated as a municipality. If the territory is located in more than one county, the application may be made to the county judge of any county in which a portion of the territory is located. Any amount of territory may be so disannexed and incorporated, but it must contain at least 200 inhabitants.

B. **APPLICATION.** The application for the subsection I election must be filed in the office of the county judge, must be signed by at least 50 qualified voters who reside in the territory covered by the application, and must include the following:

- (1) a map or plat of the boundaries of the territory subject to the election;
- (2) a statement of whether or not the population within the territory is 600 or more;
- (3) a verified statement by a registered professional engineer that the territory described in the application complies with the requirements of Section 1 of this Act; and
- (4) the proposed name of the municipality.

C. **SHALL ORDER ELECTION.** (1) Not later than the 10th day after the date on which the application is filed, the county judge shall order that an election be held for the purpose of submitting the questions of disannexation and incorporation to a vote of the people.

(2) If 600 or more people reside in the territory, the election shall be called, conducted and canvassed, and notice of it given, in the manner prescribed by Article 966 et seq., Revised Civil Statutes of Texas, 1925, as amended, and on the passage of the proposition the territory is incorporated as a city or town, with all of the powers, rights, immunities, and privileges pertaining to cities and towns incorporated under Article 966 et seq., notwithstanding the absence of compliance with any requirements of the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

(3) If fewer than 600 people reside in the territory, the election shall be called, conducted, and canvassed, and notice of it given in the manner prescribed by Article 1133 et seq., Revised Civil Statutes of Texas, 1925, as amended, and on the passage of the proposition the territory is incorporated as a town or village, with all of the powers, rights, immunities, and privileges pertaining to towns and villages incorporated under the provisions of Article 1133 et seq., notwithstanding the absence of compliance with any requirement of

the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

**D. BALLOT; EFFECT OF ELECTION.** The ballot shall be prepared to permit voting for or against the proposition: "Disannexation and incorporation." If the proposition fails to be adopted, the purported annexation is not affected by the election. If the proposition is adopted, the territory is immediately disannexed from the home-rule city that undertook to annex it.

**E. BONDS.** If the home-rule city that undertook to annex the territory has either issued bonds or assumed liability for the repayment of bonds to provide capital improvements to serve the territory that subsequently incorporated, any indebtedness incurred as a result of bond money expended by the home-rule city will be accounted for in accordance with the existing state law or laws in effect on the effective date of this act.

**F. APPLICABILITY.** Subsection A applies only to territories that were the subject of annexation ordinances on which the final reading occurred between January 1, 1977 and January 1, 1984.

The amendment was read.

Senator Mengden raised a Point of Order on further consideration of the amendment, stating it was not germane to the bill.

The President sustained the Point of Order.

The bill as amended was passed to third reading.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 411 ON THIRD READING**

Senator Mengden moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.H.B. 411** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 0.

Absent: Farabee, Howard, Jones, McKnight, Santiesteban, Snelson.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 0.

Absent: Farabee, Howard, Jones, McKnight, Santiesteban, Snelson.

#### **HOUSE BILL 885 ON SECOND READING**

On motion of Senator Wilson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 885**, Relating to property tax relief not claimed in 1979 in connection with residence homesteads of elderly and disabled persons.

The bill was read second time and was passed to third reading.

#### **HOUSE BILL 885 ON THIRD READING**

Senator Wilson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 885** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 27, Nays 0.

Absent: Farabee, Howard, Jones, Snelson.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 0.

Absent: Farabee, Howard, Jones, Snelson.

#### **SENATE RESOLUTION 627 ON SECOND READING**

On motion of Senator Sarpalius and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

**S.R. 627**, Directing the Senate Committee on Natural Resources to conduct an interim study of certain issues related to agriculture.

The resolution was read second time.

Senator Sarpalius offered the following amendment to the resolution:

Amend **S.R. 627** by striking all of the first resolving clause and substituting the following:

**RESOLVED**, That the Senate of the 67th Legislature of the State of Texas hereby direct the Senate Committee on Natural Resources to conduct an interim study of certain issues related to agriculture. The committee shall:

- (1) Investigate recent grain elevator explosions in Texas and suggest means to reduce the likelihood that such catastrophies will recur;
- (2) Study the issue of bonding or recovery funds associated with grain elevator storage to insure commodity producers against possible economic loss;
- (3) Examine the adequacy and timeliness of publicly funded agricultural research and development programs;
- (4) Explore the issue of agricultural labor with respect to labor availability and labor relations;
- (5) Study the transportation of agricultural commodities and analyze the effect that transportation rates have upon agricultural profitability;
- (6) Examine any problems relating to the enabling legislation and administration of the Family Farm and Ranch Security Program; and
- (7) Review the measures the state has taken to guarantee that farmers are assured sufficient supplies of water for their crops and livestock; and, be it further

The amendment was read and was adopted.

The resolution as amended was adopted.

#### **HOUSE BILL 764 ON SECOND READING**

On motion of Senator Travis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 764**, Relating to reduction in homeowners insurance premiums for compliance with certain security standards.

The bill was read second time and was passed to third reading.

**HOUSE BILL 764 ON THIRD READING**

Senator Travis moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 764** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Farabee, Howard, Jones.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Farabee, Howard, Jones.

**HOUSE BILL 1143 ON SECOND READING**

On motion of Senator Mauzy and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**H.B. 1143**, Relating to the administration and financing of a program to provide representation by counsel and transcription services for indigent defendants in criminal cases.

The bill was read second time.

Senator Mauzy offered the following committee amendment to the bill:

Amend **H.B. 1143**, Section 4.(a) by deleting subsection 5 and renumbering the following subsections.

The committee amendment was read and was adopted.

Senator Mauzy offered the following committee amendment to the bill:

Amend **H.B. 1143** by renumbering Section 11 as Section 12 and inserting a new Section 11 to read as follows:

“SECTION 11. APPROPRIATION. There is hereby appropriated to the Office of Comptroller of Public Accounts for the fiscal year beginning on September 1, 1982 from the special account for reimbursement to counties, which is created by Section 6, subsection (b) herein, a sum equal to all the monies in said account on August 31, 1982. Said monies shall be distributed to the counties in accordance with the provisions of Section 6 of this Act. There is hereby appropriated to the office of Comptroller of Public Accounts for the fiscal year beginning on September 1, 1983 from the special account for reimbursement to counties, which is created by Section 6, subsection (b) herein, a sum equal to all the monies in said account on August 31, 1983. Said monies shall be distributed to the counties in accordance with the provisions of Section 6 of this Act.”

The committee amendment was read and was adopted.

On motion of Senator Mauzy and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### HOUSE BILL 1143 ON THIRD READING

Senator Mauzy moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that H.B. 1143 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Howard, Jones, Snelson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0.

Absent: Howard, Jones, Snelson.

#### HOUSE BILL 1899 ON SECOND READING

On motion of Senator McKnight and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1899, Relating to the regulation of natural and synthetic gas.

The bill was read second time.

Senator McKnight offered the following committee amendment to the bill:

Amend House Bill 1899 as follows:

Art. 6050. Sec. 4. (b), by striking "A person who makes: deliveries or sales for lease use, compressor fuel, processing plant fuel, or similar uses; deliveries or sales pursuant to lease or right-of-way agreements; or deliveries or sales in or within the vicinity of the field where produced or at a processing plant outlet does not become a "gas utility," "public utility," or "utility" by virtue of such transaction. However, the terms "gas utility," "public utility" and "utility" include a person who makes other deliveries or sales to end users of gas, and persons who make city-gate deliveries for local distribution, but does not include a person covered by Section 2 of this article."

and inserting in lieu thereof the following:

"A person who makes: deliveries or sales for lease use, compressor fuel, processing plant fuel, or similar uses; deliveries or sales pursuant to lease or right-of-way agreements; or deliveries or sales in or within the vicinity of the field where produced or at a processing plant outlet does not become a "gas utility," "public utility," or "utility" by virtue of such transaction. However, the terms "gas utility," "public utility" and "utility" include a pipeline which transmits or distributes to other end users of gas, or which makes city-gate deliveries for local distribution, but does not include a person covered by Section 2 of this Article."

The committee amendment was read and was adopted.

On motion of Senator McKnight and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading.

#### **HOUSE BILL 1899 ON THIRD READING**

Senator McKnight moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **H.B. 1899** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent: Farabee, Howard, Jones.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Glasgow, Harris, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Blake.

Absent: Farabee, Howard, Jones.

#### **MEMORIAL RESOLUTIONS**

**S.R. 738** - By Doggett: Memorial resolution for Frank Lopian.

**S.R. 745** - By Snelson: Memorial resolution for Calvin H. Sugg.

**S.R. 746** - By Snelson: Memorial resolution for Mrs. Katie Lloyd Dyer.

**S.R. 747** - By Snelson: Memorial resolution for Allen J. Watts.

#### **WELCOME AND CONGRATULATORY RESOLUTIONS**

**S.R. 742** - By Williams: Extending welcome to Darin C. Lang, "Honorary Page" for the day.

**S.R. 743** - By Sarpalius: Commending L. P. "Pete" Gilvin for his achievements in business and contributions to the community.

**S.R. 749** - By Santiesteban: Extending congratulations to Jose Luis Sanchez.

**S.R. 750** - By Doggett: Commending the members of El Concilio for their involvement in the Austin community.

**S.R. 753** - By Truan: Extending congratulations to George W. Dahse on his 50 years in Lions Club.

**S.R. 754** - By Truan: Declaring Friday, August 7, 1981, American G. I. Forum Women's Day.

**RECESS**

On motion of Senator Mauzy the Senate at 4:00 o'clock p.m. took recess until 8:00 o'clock a.m. tomorrow.

**APPENDIX**

Sent to Governor  
(May 26, 1981)

S.B. 6	S.B. 701
S.B. 26	S.B. 738
S.B. 42	S.B. 776
S.B. 172	S.B. 896
S.B. 224	S.B. 957
S.B. 228	S.B. 1022
S.B. 337	S.B. 1035
S.B. 369	S.B. 1155
S.B. 382	S.B. 1174
S.B. 464	S.B. 1176
S.B. 541	S.B. 1186
S.B. 561	S.B. 1199
S.B. 565	S.B. 1202
S.B. 642	S.B. 1209
S.B. 656	

Sent to Comptroller  
(May 26, 1981)

S.B. 1177

In Memory

of

James Robert "Jim Bob" Huff

Senator Doggett offered the following resolution:

(Senate Concurrent Resolution 129)

WHEREAS, James Robert "Jim Bob" Huff was only 24 years old when he died, but his academic achievements, his service to his country and community, and his resolute strength of character were far beyond his years; and

WHEREAS, His greatest achievement was a courageous battle against cancer that testified to his brave, unfailing inner strength; and

WHEREAS, Mr. Huff attended Stephen F. Austin High School in Austin, where three times he won the Austin Independent School District Distinguished Student Award for outstanding scholastic achievement; he also achieved the rank of Eagle Scout, Order of the Arrow, and served as counselor at Camp Stewart for Boys; and

WHEREAS, He entered Texas A&M University upon graduating from high school in 1975 and compiled a notable record of honors, including President of the Home Town Club (1977-78), member of the Student Senate (1977-78), Corps Racquet Ball Champion (1977-78), and Captain, Company A, Corps of Cadets (1978-79); and

WHEREAS, He completed his Bachelor of Science in Business Management in 1979; and

WHEREAS, In the same year this admirable young man was commissioned a 2nd Lieutenant in the United States Army and completed the Basic Officers Course at Fort Lee, Virginia; he served his country nobly until his discharge with the permanent rank of 2nd Lieutenant in August, 1980; and

WHEREAS, Highly active in civic and social concerns both in college and in his community, Mr. Huff was a member of the Century Club, the Former Students Association of Texas A&M University, and the Capital Area Club of Austin; most important to him was his membership in the Tarrytown Methodist Church, where he worshipped from boyhood; and

WHEREAS, The loss of this accomplished and promising young man is a great sadness to the Austin community, to his many college and military friends, and indeed to everyone who knew him; now, therefore, be it

RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the 67th Legislature hereby honor the memory of Mr. James Robert "Jim Bob" Huff and commend his patriotism and his valor as exemplary; and, be it further

RESOLVED, That deepest condolences be extended to the members of his family: his father Charles, Executive Director of the Texas Veterinary Medical Association; his mother, Bobbie, a teacher at Casis Elementary School; his sisters LuAnn and Dixie; and his brother Jason, all of Austin; and be it further

RESOLVED, That an official copy of this Resolution be prepared for the family of Jim Bob Huff, and that when the Texas Legislature adjourns this day, it do so in his memory.